

May 18, 2006

To: Utah Air Quality Board

From: Ernest Wessman, Appointed Hearing Officer

Re: Recommendation concerning resolution of Pine Factory's Request for Hearing, DAQC-1471-2005.

The Board appointed me as hearing officer to hear the appeal submitted by Mr. Doug Clark on behalf of Pine Factory of a Notice of Violation and Order for Compliance dated October 24, 2005. A letter was sent to Mr. Clark advising him the hearing was set for April 27, 2005. Mr. Clark did not appear at the hearing. I had Fred Nelson, Counsel to the Board, telephone Mr. Clark. Mr. Nelson reported that Mr. Clark indicated he had received the letter notifying him of the hearing, and he had also received a copy of the administrative record. Mr. Nelson reported that Mr. Clark stated he was not withdrawing his appeal but that Pine Factory would rely on the written submittals he had sent to the Executive Secretary that were part of the administrative record. Mr. Nelson said Mr. Clark told him that he would not be appearing at the hearing. As hearing officer, I went forward with the proceeding. I received into evidence the administrative record and heard testimony from Rob Leishman and Jeff Dean of the Division of Air Quality (see attached transcript and administrative record, Attachment 1).

Recommendation:

Based on the documents and evidence, I recommend that the Board approve the attached "Findings of Fact, Conclusions of Law, and Order" (Attachment 2) as the decision of the Board on this appeal. I found that the evidence supported the conclusion that a valid approval order had been issued by the Executive Secretary to Pine Factory. I also concluded that the evidence was sufficient to uphold the violations stated in the Notice of Violation and Order for Compliance dated October 24, 2005.

The purpose for the hearing was to consider the validity of the Notice of Violation and Order to Comply. The purpose was not to determine a penalty. I am advised by Mr. Nelson that determinations of penalty amounts can be resolved only by an agreed-to settlement with Pine Factory or as determined by a judge in a civil proceeding.

I would note that an issue was discussed at the hearing as to whether the current size of the Pine Factory operation would qualify it for de minimus status under UAC R307-413, and therefore make Pine Factory not subject to the requirements for an approval order. I concluded that the burden is on Pine Factory to request a change of status with supporting documentation, and that absent approval of such a request, the existing approval order continues to be enforceable.

1

HEARING RECORD

PINE FACTORY

April 27, 2006

Notice of Violation and Order Number 2005100508

1. Pine Factory Approval Order and inspection notes, November 4, 2004.
2. Pine Factory Visible Emissions Observation Form, November 4, 2004.
3. Compliance Inspection report sent to Pine Factory, November 16, 2004.
Record of certified mail delivery attempts - 11/20/04, 12/02/04, 12/12/04.
Notes and signature from hand delivery to main shop and Riverdale store, 12/27/04.
4. Photographs of main shop, 12/27/2004.
5. Inspection Memorandum, 01/12/2005.
6. Compliance Advisory Sent to Pine Factory January 13, 2005.
Record of certified mail delivery attempts - 01/18/05, 01/25/05, 02/02/05
Notes and signature from hand delivery to main shop and Riverdale store, 02/11/05.
7. e mail from Pine Factory to DAQ, February 15, 2005.
VOC Report.
Photograph of main shop.
8. Informal Conference Letter sent to Pine Factory March 30, 2005.
Record of certified mail delivery attempts - 04/04/05, 04/12/05, 04/19/05
9. Proposed Settlement agreement sent to Pine Factory May 13, 2005.
Record of certified mail delivery attempts - 05/13/05, 05/20/05, 05/30/05.
Notes and signature from hand delivery to main shop 06/08/05.
10. Notes on telephone calls to Pine Factory 07/06/05 - 07/11/05.

11. Letter to Pine Factory from Attorney General's Office, August 15, 2005.
Record of certified mail delivery attempts - 08/16/05, 08/24/05,
08/31/05.
12. Notice of Violation and Order issued to Pine Factory October 24, 2005.
Record of service on Pine Factory 11/02/05.
13. December 2, 2005 Request for a Hearing.
14. Letters from Attorney General's Office setting up a hearing on Notice of
Violation and Order number 20051005008, 12/27/05, 01/23/06, 03/09/05,
03/27/05.

SHEET 1

ADMINISTRATIVE HEARING OF PINE FACTORY

Utah Department of Environmental Quality

150 North 1950 West

P.O. Box 144820

Salt Lake City, Utah 84114-4099

April 27, 2006

1:30 p.m.

Reporter: Shantae Rindfleisch, RPR
Notary Public in and for the State of Utah

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2	Examination by Ms. Hubbell	6
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E X H I B I T S		
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1 (Pine Factory Approval Order and inspection notes. November 4, 2004)	8	37
2 (Pine Factory Visible Emissions Observation Form. November 4, 2004)	16	37
3 (Compliance Inspection report sent to Pine Factory. November 16, 2004)	16	37
Record of certified mail delivery attempts - 11/20/04, 12/02/04, 12/12/04		
Notes and Signature from hand delivery to main shop and Riverdale store. 12/27/04		
4 (Photographs of main shop. 12/27/2004)	19	37
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6 (Compliance Advisory sent to Pine Factory. January 13, 2005)	20	37
Record of certified mail delivery attempts - 01/18/05, 01/25/05, 02/02/05		
Notes and signature from hand to main		

A P P E A R A N C E S

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ALSO PRESENT:

Hearing Officer- Ernest E. Wessman
Jeff Dean

-oOo-

NO.	OFFERED	ADMITTED
shop and Riverdale store. 02/11/05		
7 (e-mail from Pine Factory to DAQ. February 15, 2005)	21	37
VOC Report Photograph of main shop		
8 (Informal Conference Letter sent to Pine Factory March 30, 2005)	28	37
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Record of service on Pine Factory. 11/02/05		

<p>5</p> <p>1 NO. OFFERED ADMITTED</p> <p>2 13 (December 2, 2005 Request 36 37</p> <p>3 for a Hearing)</p> <p>4 14 (Letters from Attorney 36 37</p> <p>5 General's office setting</p> <p>6 up a hearing on Notice</p> <p>7 of Violation and Order</p> <p>8 Number 200510050008.</p> <p>9 12/27/05, 1/23/06,</p> <p>10 03/09/06, 03/27/06)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>7</p> <p>1 Violation and Order to Comply.</p> <p>2 As I indicated earlier, the number is</p> <p>3 2005100508 by the Executive Secretary to Pine</p> <p>4 Factory. As required by the Utah Air Quality rules,</p> <p>5 Utah Administrative Code R307-103-4(1), this hearing</p> <p>6 is to be conducted as a formal hearing under the Utah</p> <p>7 Administrative Procedures Act, Title 63, Chapter 46b</p> <p>8 of the Utah Code.</p> <p>9 Because Mr. Clark is not here, the hearing</p> <p>10 as we would plan to give it can't really proceed, but</p> <p>11 we do have some information that needs to be entered</p> <p>12 into the record so that I, as the hearing officer,</p> <p>13 can evaluate and make a recommendation to the Air</p> <p>14 Quality Board.</p> <p>15 And I understand that Ms. Hubbell has some</p> <p>16 information to present.</p> <p>17 MS. HUBBLE: I would like to ask that Mr.</p> <p>18 Leishman be sworn so that he can testify.</p> <p>19 MR. WESSMAN: Okay. So can you take care</p> <p>20 of that?</p> <p>21</p> <p>22 ROB LEISHMAN,</p> <p>23 called as a witness, being first sworn was</p> <p>24 examined and testified as follows:</p> <p>25</p>
<p>6</p> <p>1 PROCEEDINGS</p> <p>2</p> <p>3 MR. WESSMAN: I am Ernest Wessman, member</p> <p>4 of the Utah Air Quality Board and the hearing officer</p> <p>5 appointed by the Board for the matter of the Pine</p> <p>6 Factory. Notice of Violation and Order Number</p> <p>7 2005100508. And I'm hereby convening this hearing.</p> <p>8 I would like to have those who are present</p> <p>9 at this time to announce who they are and their</p> <p>10 affiliation. And we'll start with Fred Nelson.</p> <p>11 MR. NELSON: My name is Fred Nelson, and</p> <p>12 I'm representing the hearing officer and the Board in</p> <p>13 this matter.</p> <p>14 MS. HUBBELL: My name is Melissa Hubbell.</p> <p>15 I'm with the Attorney General's office, and I'm</p> <p>16 representing the Division of Air Quality.</p> <p>17 MR. LEISHMAN: My name is Rob Leishman.</p> <p>18 I'm with the state of Utah Division of Air Quality.</p> <p>19 I'm an environmental scientist.</p> <p>20 MR. WESSMAN: Thank you. And the only</p> <p>21 other person present is the court reporter. And Mr.</p> <p>22 Doug Clark, proprietor of Pine Factory has not</p> <p>23 appeared. The proceeding was being held at the</p> <p>24 request of Pine Factory, and was for the purpose of</p> <p>25 hearing the appeal of the issuance of the Notice of</p>	<p>8</p> <p>1 EXAMINATION</p> <p>2 BY MS. HUBBELL:</p> <p>3 Q. Mr. Leishman, you've already stated your</p> <p>4 name and your position. I would like to go through</p> <p>5 these documents.</p> <p>6 The first document which is entitled</p> <p>7 Exhibit 1 is a Pine Factory Approval Order and</p> <p>8 Inspection note. What's an Approval Order?</p> <p>9 A. An Approval Order is a document issued by</p> <p>10 the Division of Air Quality. It is a permit for an</p> <p>11 emissions producing facility to operate and to have</p> <p>12 emissions.</p> <p>13 Q. All right. Whose Approval Order is this?</p> <p>14 A. This Approval Order was initially issued</p> <p>15 to Doug Clark of C & C Manufacturing. At some point</p> <p>16 they changed their name to Pine Factory. It was also</p> <p>17 issued to a location 3150 Wall Avenue. They had</p> <p>18 moved at some point to 2480 South 250 West in Ogden.</p> <p>19 It was issued originally by the Executive Secretary,</p> <p>20 Russell Roberts.</p> <p>21 Q. What business do they run?</p> <p>22 A. Pine Factory operates a pine furniture --</p> <p>23 or wood furniture manufacturer and facility where</p> <p>24 they use pine logs and other wood to fabricate</p> <p>25 various pieces of wood furniture.</p>

SHEET 2

9

1 Q. And why are they required to have an
2 Approval Order?

3 A. They are required to have an Approval
4 Order because their calculated emissions rates are
5 such that -- that they would exceed the minimum
6 requirements in the state rules which require them to
7 have an Air Quality Approval Order.

8 Q. Okay. I noticed that there are notes all
9 over this Approval Order. Could you tell me what
10 those are?

11 A. The notes are -- they were put there by
12 me. Those are notes that I take while I'm on an
13 inspection just to remind me what happened, what went
14 on, what records that I looked at, what items I
15 closed. Just kind of general notes taken during the
16 inspection.

17 Q. Did you notice any violations during this
18 inspection?

19 A. Yeah. At the time of the initial
20 inspection, it was noted that the -- that the paint
21 booth was missing filters, or at least one or several
22 filters missing in the center of the paint booth, as
23 well as there was a container holding Volatile
24 Organic Compound, which was observed to be opened at
25 that time.

10

1 Q. And those are violations?

2 A. Those are violations of the Air Quality
3 Approval Order.

4 Q. All right. If you have any questions,
5 just interrupt at any time.

6 UNIDENTIFIED SPEAKER: Fred, he's on the
7 phone now.

8 MS. HUBBLE: Off the record.
9 (A break was taken.)

10 MR. WESSMAN: Just to set for the record
11 here, we've had a brief intermission in order to take
12 a phone call from Mr. Doug Clark who has failed to
13 appear in person so far in the meeting. And Mr.
14 Nelson's been talking to him. And so do you have a
15 report?

16 MR. NELSON: Yes. Mr. Clark indicated
17 that he had made a decision not to come to the
18 hearing. That he is relying on the information that
19 he's submitted that is part of the documents that
20 were sent to him. I believe there are a couple of
21 exhibits --

22 MS. HUBBLE: 7 and 13, I believe, yes.

23 MR. NELSON: 7 and 13 are the documents
24 that he is relying on as his response to the Notice
25 of Violation and Order, and that if those documents

11

1 are part of the record, that he did not see a need to
2 appear, and declined to appear, and indicated that we
3 should just go forward with the proceeding.

4 MR. WESSMAN: Okay. On that basis then,
5 unless there's any objection, why don't we continue
6 with the discussion that we were in before. And you
7 asked me, Melissa, a few minutes ago if I had any
8 questions.

9 MS. HUBBLE: Yes.

10 MR. WESSMAN: One thing that you
11 mentioned, Rob, is that an Approval Order was issued
12 because the calculated emissions from Pine Factory
13 were sufficiently high enough to require an Approval
14 Order.

15 THE WITNESS: Yes.

16 MR. WESSMAN: Is that an accurate
17 paraphrase of what you said?

18 THE WITNESS: Yes.

19 MR. WESSMAN: Can you tell me what those
20 limits are that trigger the need for an Approval
21 Order and an air permit?

22 THE WITNESS: Currently the levels of
23 emissions are five tons a year. At the time of the
24 1995 Air Quality Approval Order, it was calculated
25 that the actual VOC emissions or the calculated VOC

12

1 emissions would be 15 tons a year.

2 MR. WESSMAN: Okay. As I look through the
3 Approval Order requirements, are each of these
4 requirements consistent with the Utah Administrative
5 Code for the Utah Air Quality Rules?

6 THE WITNESS: Yeah. These requirements
7 are very consistent with other Air Quality Approval
8 Orders that I've used in my inspections of various
9 other woodworking facilities. They're very
10 consistent with those.

11 MR. WESSMAN: Okay. For example, the
12 requirement number 6, which is one of the
13 requirements that is at issue here, says that, "The
14 paint spray booth shall be equipped with paint
15 arrestor particulate filters," and, "All air exiting
16 the booth shall pass through this control system."
17 Is that consistent with Utah Air Quality Rules?

18 THE WITNESS: Yeah. That requirement is
19 also considered best available controlled technology
20 for the service company history.

21 MR. WESSMAN: Okay. And then the 7.5
22 percent by weight requirement in Condition Number 7,
23 is that something that's spelled out again through
24 the Utah Air Quality Rule, or Code, or EPA Rules, or
25 anything?

13

1 THE WITNESS: Yeah. I believe that would
2 be either in the State of Utah Rules or the federal
3 requirements for these types of industries. The
4 Federal Resource Performance Standards, that would be
5 in one or both of those rules.

6 MR. WESSMAN: Do we know for sure if they
7 are?

8 THE WITNESS: I don't know.

9 MR. WESSMAN: Okay. Anybody else know?

10 MR. DEAN: It would be in the general
11 rules under --

12 MR. NELSON: We probably ought to have
13 Jeff sworn in.

14 MR. DEAN: Jeff Dean.

15
16 JEFF DEAN,
17 was sworn as a witness.

18
19 MR. DEAN: Those requirements for VOC
20 limits in different paint solvents, the type of
21 solutions that Mr. Clark is using, those are in the
22 general rules that govern Ozone nonattainment
23 maintenance-type areas and attainment areas.

24 MR. WESSMAN: Okay. But a 7.5 percent by
25 weight is the requirement in some of those?

14

1 MR. DEAN: Yes.

2 MR. WESSMAN: Okay. And then on Number 8
3 the -- where it talks about not exceeding 15 tons per
4 12-month period, and then basically compliances
5 demonstrated by maintaining of records of VOC
6 containing materials used each month. Is that
7 requirement consistent with what other industries and
8 permittees are required to have?

9 THE WITNESS: Yes. The amount may vary
10 from company to company. Fifteen tons a year was
11 probably the amount that Mr. Clark at the time
12 applied to have as his emissions limit.

13 MS. HUBBELL: Perhaps you could explain
14 what these two "Rs" mean.

15 THE WITNESS: The "R" notation next to
16 those conditions indicates that that was an item
17 where I needed to gather records to complete the
18 inspection. I would have -- at the time of the
19 inspection, I left Mr. Clark -- well, I left Mr.
20 Clark's father, Rulon Clark, a copy of this Air
21 Quality Approval Order. I circled those conditions
22 indicating that those were the conditions that I
23 needed to get records for from Mr. Clark.

24 MR. WESSMAN: Okay. Thank you.
25 On Condition 12, that all records

15

1 referenced in the Approval Order which are required
2 to be kept by the owner/operator shall be made
3 available, is that a condition that is required under
4 the Utah Administrative Code and the Air Quality
5 Rules?

6 THE WITNESS: Yes.

7 MR. WESSMAN: And then Number 13, to
8 properly and adequately maintain installations to
9 facilities, they shall all be installed, maintained,
10 and operated, and "Instructions from the vendor or
11 established maintenance practices that maximize
12 pollution control shall be used." Is that consistent
13 with the Utah Administrative Code and Rules?

14 THE WITNESS: Yes.

15 MR. WESSMAN: Okay. Thank you. That's
16 what I needed on that.

17 Q. (By Ms. Hubbell) Thank you.

18 Did you leave a copy of this document with
19 someone at the Pine Factory?

20 A. Yes. I left a copy of the Air Quality
21 Approval Order with Doug Clark's father, Rulon Clark,
22 who said that he would get the information to Doug
23 about what I needed and when I needed it.

24 Q. Okay. Would you look at Exhibit Number 2.
25 Is this a document you made?

16

1 A. Yeah. Exhibit Number 2 is a Visible
2 Emission Observation Form. It's a form that we use
3 to record our visible emissions observation in
4 accordance with EPA reference Method 9. It's also a
5 place where we can take down additional notes. And
6 then, of course, we signed the document indicating
7 that we observed whatever it was we wrote down, and
8 then we also get somebody on site. We get their
9 signature, as well, so that they have proof that we
10 left a copy. There's a carbon copy to this and all
11 of that. All their signature means is that they've
12 received a copy of this particular document.

13 MS. HUBBELL: Do you have any questions
14 about that?

15 MR. WESSMAN: Not on this one.

16 Q. (By Ms. Hubbell) All right. What is
17 Exhibit Number 3?

18 A. Exhibit Number 3 is a written request for
19 records based on my inspection.

20 Q. Are these the same records you had
21 requested at the earlier inspection?

22 A. Yes.

23 Q. Did you have this document sent to the
24 Pine Factory?

25 A. Yes.

SHEET 3

17

1 Q. And what happened?
 2 A. We sent the document -- what had happened
 3 was I never received records after the November 4,
 4 2004 inspection. So we sent the written request for
 5 records on November 16 of 2004. We sent that
 6 certified mail and the Pine Factory failed to pick up
 7 the Request for Records.
 8 Q. The certified mail?
 9 A. Yeah. They refused to receive the
 10 certified mail.
 11 Q. All right. So what did you do?
 12 A. After we received a copy -- or after we
 13 received the certified mail, after three attempts to
 14 deliver, the last attempt being made on December 12th
 15 of 2004, I went up on December 27th and hand-
 16 delivered the documents to the main shop, as well as
 17 the store on Riverdale Road.
 18 Q. Is that a requirement of Utah law that you
 19 hand-deliver it?
 20 A. No.
 21 Q. What is the requirement?
 22 A. The requirement is that Pine Factory make
 23 the records available.
 24 Q. No. But I mean, how are you required to
 25 send things to them?

18

1 A. I don't know if I understand the question.
 2 Q. Are you required to send them by certified
 3 mail?
 4 A. No, we are not.
 5 Q. Okay. But you did that anyway?
 6 A. Yes.
 7 MR. WESSMAN: Excuse me on that one. Is
 8 there a prescribed means by which notices and
 9 requests for information must be delivered to a
 10 permittee?
 11 THE WITNESS: No. We generally use
 12 certified mail only because we receive a card that
 13 shows when they received the document, that they in
 14 fact did receive the document. But there's no --
 15 there's no statute that -- that specifies how we
 16 request records.
 17 MR. WESSMAN: Thank you.
 18 Q. (By Ms. Hubbell) On what day did you
 19 hand-deliver these documents?
 20 A. I hand delivered them on December 27th of
 21 2004.
 22 Q. And did you visit the factory area again?
 23 A. Yeah. At the time of the hand delivery of
 24 the written request for records, we -- I went back
 25 into the shop area, observed the paint booth, which I

19

1 had told the facility personnel that the filters
 2 needed to be replaced, that they were excessively
 3 caked with material and the filters were missing. I
 4 had told them at the time of the initial inspection
 5 that they needed to fix those items and to keep their
 6 VOC containing materials in tight-fitting covered
 7 containers.
 8 At the time of the delivery of the
 9 documents, I went back to the paint booth and found
 10 again a container holding VOC containing materials,
 11 as well -- sitting there open and not in use, as well
 12 as the paint booth filters still missing and still
 13 excessively caked with material.
 14 Q. Did you take photographs while you were
 15 there on the 27th?
 16 A. Yes.
 17 Q. Are those photographs the ones listed here
 18 as Exhibit 4?
 19 A. Yes, they are. The first photograph is a
 20 picture of the paint booth in the condition that I
 21 observed it in. It was in a similar condition as the
 22 November inspection.
 23 And then the second picture is another
 24 opened container of VOC containing materials.
 25 MS. HUBBELL: Do you have any questions?

20

1 MR. WESSMAN: I have no questions.
 2 Q. (By Ms. Hubbell) Let's go on to Exhibit
 3 5. What is that document?
 4 A. Exhibit 5 is a copy of the Pine Factory
 5 inspection report that I wrote. That document
 6 contains all of the particulars about the inspection
 7 based on every single condition of the Air Quality
 8 Approval Order.
 9 Q. Okay. Exhibit 6, what is this document?
 10 A. Document 6 is the Compliance Advisory that
 11 was issued to Pine Factory on January 13th of 2005.
 12 The Compliance Advisory is a citation of conditions
 13 that the company had failed to comply with.
 14 Q. Okay. What is the purpose of the
 15 document?
 16 A. The purpose of the document is to notify
 17 the company that they are not in compliance with
 18 various conditions of the Air Quality Approval Order,
 19 and to get them to initiate corrective action, as
 20 well as to respond and to demonstrate to the Division
 21 of Air Quality that they are doing something about
 22 the problems noted during the inspections.
 23 Q. Okay. How did you get this delivered to
 24 the Pine Factory?
 25 A. We again attempted to send it certified

21

1 mail. Again, there were three attempts by the U.S.
2 Post Office to deliver the documents. The Compliance
3 Advisory is dated January 13, 2005. The last attempt
4 to deliver this certified mail was February 2, 2005.
5 And so again, I had to hand deliver the document on
6 February 11th of 2005 to both the shop and the store
7 locations.

8 Q. Okay.

9 MR. WESSMAN: I have no questions.

10 Q. (By Ms. Hubbell) Do you recognize Exhibit

11 7?

12 A. Exhibit 7 is an e-mail submitted to me on
13 the state of Utah e-mail system by Doug at Pine
14 Factory on February 15th of 2005. The document is
15 Doug Clark's response to the Compliance Advisory. It
16 indicates various reasons as to why he couldn't
17 comply or didn't comply with the requirements in the
18 Air Quality Approval Order, as well as providing a
19 record that Mr. Clark thought was sufficient to
20 demonstrate compliance with the requirements of the
21 Approval Order. It also -- attached to the e-mail
22 was a photograph that Mr. Clark took of the paint
23 booth with new filters in place.

24 Q. Okay. I have a question on Page 2 of his
25 letter. Mr. Clark says, "Now I submit to you that if

23

1 Q. Do you have any way of knowing how
2 accurate these records are?

3 A. No. I have no information. There was
4 never any backup information provided other than this
5 summary sheet.

6 Q. Would that normally be required?

7 A. Yeah.

8 MS. HUBBELL: Okay. Do you have any
9 questions?

10 MR. WESSMAN: Yes. I would like to ask a
11 couple of follow-ups to that.

12 THE WITNESS: Okay.

13 MR. WESSMAN: When I look at the
14 requirements under Requirement Number 8, the
15 sub-points here, there are a number of things listed
16 here under A, B, and C, D, and E.

17 First of all, the name of the VOC
18 material, has that been listed?

19 THE WITNESS: The name of the -- it could
20 be. That could be the names. I don't know
21 necessarily that all of the names of the VOC
22 admitting materials are included in this.

23 MR. WESSMAN: Right.

24 THE WITNESS: But there are names of some
25 VOC materials in these.

22

1 there is no visible particulates coming from the
2 outside ductwork, how can missing filters be a
3 deficiency?" I mean, can you answer that?

4 A. Yeah. There are two separate requirements
5 in the Air Quality Approval Order. There is a
6 visible emissions requirement, as well as a
7 requirement to have filters in the paint booth. The
8 requirements to have filters in the paint booth are
9 independent of the requirement to comply with visible
10 emissions standards.

11 Q. Okay. And I also wanted to ask you about
12 the attached VOC Report for the Pine Factory
13 2003/2004.

14 A. Okay.

15 Q. Is this an adequate VOC Report?

16 A. No. This report is very vague. The
17 records required by the company to demonstrate
18 compliance with their -- with Air Quality approval or
19 limits needs to be a lot more involved than this.
20 There's no way to verify where these numbers came
21 from. There's really no statement as to where --
22 what time period this is, whether it's one month, or
23 ten months, or 12 months. There's -- the record is
24 really incomplete with respect to the requirements of
25 the approval.

24

1 MR. WESSMAN: For a typical shop of this
2 facility, what kind of records do you normally see?

3 THE WITNESS: Normally what we'll see is
4 some sort of a summary sheet similar to this where
5 we'll have various materials that they consume.

6 In this case, he indicates that there's
7 Akso sander sealer, Akso top coat, and Akso stain.
8 In a typical company, there's usually a lot more than
9 three materials consumed in a company. But then
10 they'll have the totals from each of those materials
11 for each month for the period that I requested, or
12 that an inspector requests on the rolling 12-month
13 total as of the date of the inspection.

14 A rolling 12-month total is a total, based
15 on the month prior to the inspection, back 12 months.
16 And then it's summed up so that you can see where
17 their consumption was, what their emissions were for
18 each month, for each compound, for each material for
19 the 12-month period.

20 MR. WESSMAN: Okay. And this summary here
21 then does not provide you the means to determine what
22 the rolling 12-month total was?

23 THE WITNESS: The document is very vague.
24 It specifies that it's for "Total VOC for year
25 2003-2004." I highly doubt that even a small company

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1 would consume this little of material in a two-year
2 period. So I'm left to assume that, or at least hope
3 that it's a 12-month period, but it's not specified.
4 These numbers could have come from anywhere. There's
5 never been any backup information. In any of my
6 visits to the Pine Factory, I've never actually had
7 anybody offer up MSDS sheets, purchase orders, or
8 anything like that. This is the best that I've ever
9 gotten from Doug.

10 MR. WESSMAN: Okay. And typically do you
11 require purchase orders, or MSDS, or other items to
12 verify the level of -- or the amounts of materials
13 used in a similar organization?

14 THE WITNESS: Yes. Oftentimes we do that,
15 yes.

16 MR. WESSMAN: Okay. Let's see. Under
17 Item 8(E), "Records of consumption shall be kept for
18 all periods when the plan is in operation ... made
19 available upon request, and include a period of two
20 years ending with date of request."

21 I understand from what you've said that
22 that has not been made available to you?

23 THE WITNESS: Right. What that
24 requirement would specify is that the -- that he be
25 able to provide at least two years' worth of data to

1 had been issued an Approval Order on the basis of
2 calculations showing that they would exceed five tons
3 per year of the criteria pollutants, as you mentioned
4 earlier, and then later operations and what other
5 conditions might have changed, result in a revised
6 calculation or actual operational experience showing
7 that the level is below five tons a year, what should
8 an entity do?

9 THE WITNESS: That's actually a common
10 situation. When the state of Utah issued rules under
11 the de minimus requirements, it's in the permitting
12 rules where if they have actual emissions calculated
13 to be well under five tons a year, they can then
14 apply for a de minimus determination where the
15 Executive Secretary, if they are found to indeed have
16 actually emissions well below the thresholds to
17 require a permit, that then they will issue a de
18 minimus letter and rescind the Air Quality Approval
19 Order. And then that facility only becomes
20 accountable to the rule and not the Air Quality
21 Approval Order.

22 MR. WESSMAN: Becomes accountable to the
23 what?

24 THE WITNESS: The rule. The items in the
25 rule. You know, pass the standards for any company

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1 show what the company is doing to comply with this
2 requirement.

3 In this case, he should be able to show
4 12 or 24 rolling -- 12-month periods in order to
5 demonstrate compliance. And then we'll -- you know,
6 we'll see business fluctuations in there where they
7 have high months, they have low months, and that
8 affects the rolling 12-month total to -- you know,
9 what we have here is we have one total of some sort.

10 MR. WESSMAN: Okay. If this represented a
11 full and complete listing of the amounts used and the
12 VOC produced for the two years, would he require an
13 air permit?

14 THE WITNESS: If the information in this
15 report were true and accurate, it is plausible under
16 today's rules that no, he would not require an Air
17 Quality Permit.

18 MR. WESSMAN: Okay.

19 Q. (By Ms. Hubbell) Is that for a one-year
20 period or a two-year period?

21 A. A one-year period.

22 MR. WESSMAN: So if this were two years --

23 THE WITNESS: He would be well under it
24 yes, if the information was accurate.

25 MR. WESSMAN: Okay. If an organization

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1 in the state, VOC minimization requirements for any
2 company in the state, those types of rules, which are
3 not nearly as specific as the requirements in the Air
4 Quality Approval Order.

5 MR. WESSMAN: Okay. And if a company has
6 had an Approval Order issued and then they decide
7 they should come under the de minimus rules, do they
8 have to apply for it or can the Executive Secretary
9 make that determination?

10 THE WITNESS: If they want the Executive
11 Secretary to make that determination, they have to
12 apply for it.

13 MR. WESSMAN: Okay. So the Executive
14 Secretary will not rescind an Approval Order for
15 something like that or withdraw it or cancel it
16 without a request from the organization?

17 THE WITNESS: Exactly.

18 MR. WESSMAN: Okay. That's all I have.

19 Q. (By Ms. Hubbell) Okay. Let's go on to
20 Exhibit 8. What is this document?

21 A. Exhibit 8 is an -- it is a written
22 notification that an informal settlement conference
23 or an informal conference related to the Compliance
24 Advisory would be held on behalf of Pine Factory.
25 There had been several attempts to contact Doug Clark

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1 by telephone, which I was unable to contact him.
2 So the way that the Division of Air
3 Quality handles settlement of Compliance Advisories,
4 they give the company a chance to provide conditional
5 information to show whether the items cited in the
6 Compliance Advisory are actual non-compliant items or
7 whether they have information contrary to that to
8 show what they've done to comply with the
9 requirements. To show -- you know, it's an
10 opportunity to make sure that the records are
11 straight between the Division of Air Quality and Pine
12 Factory.

13 Q. Did Mr. Clark show up to this meeting?

14 A. No. This document we, again, attempted to
15 deliver it by certified mail. And, again, the
16 document was returned to the Division of Air Quality
17 on May 6th of 2005, which it was originally mailed
18 March 30th of 2005. The meeting was -- the meeting
19 date was arbitrarily set at April 29, 2005 at 2:00
20 p.m. And when we received the document, three
21 attempts had been made to deliver it up until April
22 19th, and then the Division of Air Quality received
23 it May 6th and the Post Office so -- as
24 undeliverable. So Mr. Clark didn't even know that
25 the meeting was held.

30

1 Q. If Mr. Clark had shown up at the April
2 29th meeting and shown and had records that you could
3 actually find reliable, could he have then applied
4 for the de minimus exemption?

5 A. Yeah. The de minimus exemption would have
6 been outside of the scope of the inspection, but he
7 could have definitely applied for that. He could
8 have applied for that at any time. He can still
9 apply for that today if he wanted. That is all --
10 that's outside of the scope of the inspection and the
11 compliance actions that were taken against him.

12 Q. But at that point, if he had come in and
13 met with you, would you have still issued a Notice of
14 Violation and Order?

15 A. No. I don't think that the Notice of
16 Violation would have been necessary at that point.
17 If he would have come in to work on closing out the
18 Compliance Advisory, given me information that I
19 needed in order to work toward an acceptable
20 resolution of the items, I think that we probably
21 could have come up with a deal.

22 Q. Okay. Thank you.

23 Do you have any questions about that?

24 MR. WESSMAN: No. Excuse me, I do have
25 one question.

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1 To your knowledge, has Mr. Clark ever
2 requested reconsideration of whether he needs an air
3 permit?

4 THE WITNESS: Yes. In several phone
5 conversations in -- I -- possibly even in the two
6 items of the correspondence that he's sent to us by
7 e-mail, he has -- he's made statements to me that
8 reflect that he shouldn't even be regulated under the
9 Division of Air Quality rules. That if it wasn't --
10 his statement to me at one point on the phone was if
11 it wasn't for one compound being eight pounds over
12 the limit, that he wouldn't even require an Air
13 Quality Approval Order.

14 I told him at that point that if he didn't
15 require an Air Quality Approval Order, he should
16 apply to have his Air Quality Approval Order removed.

17 MR. WESSMAN: That eight pounds over the
18 limit, was that during initial calculations that led
19 to the issuance of the Approval Order?

20 THE WITNESS: No. That was -- I think
21 that that eight pounds over the limit is Mr. Clark's
22 recollection of what the de minimus requirements are
23 or what requires him to have an Air Quality Approval
24 Order. But his initial -- the initial calculations
25 back in 1995 were actually 15 tons of material. Mr.

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1 Clark believes that because his emissions were 1,508
2 pounds, or something to that effect, over the -- that
3 he was eight pounds over the limit.

4 MR. WESSMAN: That initial 15-ton
5 calculation, was that submitted by Mr. Clark or done
6 by members of the Air Quality Division?

7 THE WITNESS: That calculation would have
8 been based on information that Mr. Clark submitted
9 when he initially applied for the Air Quality
10 Approval.

11 MR. WESSMAN: Okay. Thank you.

12 Q. (By Ms. Hubbell) Document Number 9, what
13 is this document?

14 A. Document Number 9 is a proposed settlement
15 agreement issued to Pine Factory on May 13, 2005.
16 That is a document where, based on the information
17 that we had available to us at the time, calculations
18 were made as to what the penalty would be for Pine
19 Factory considering Mr. Clark's responses or lack
20 thereof, considering the circumstances behind the
21 violations, considering the requirements, all of
22 these things went into the calculations, and entered
23 into a spreadsheet where then he was given an
24 opportunity to go ahead and settle the Compliance
25 Advisory.

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1 The initial proposed settlement offer
2 contained a reduction in the penalty of 20 percent in
3 the event that he wanted to go ahead and settle the
4 Compliance Advisory the way it sat. And that
5 document was also sent to Mr. Clark via certified
6 mail.
7 Q. And did he receive it?
8 A. He did not receive it by three attempts to
9 deliver the certified mail. He did receive it when I
10 delivered a copy of it to the store in Riverdale.
11 Q. That was --
12 A. That was on June 8th of 2005.
13 Q. Did he contact you after that?
14 A. Yes. Doug called me on the phone.
15 Q. Are you looking at Exhibit 10?
16 A. Yeah. Exhibit 10 is just one of my notes
17 that I had made when I received a phone call from Mr.
18 Clark on July 6th of 2005 -- no. That was about a
19 month later. I probably had phoned Mr. Clark trying
20 to -- or the company, trying to get ahold of him to
21 let him know that the time was expiring on the
22 settlement notice.
23 On July 6 of '05 at 2:30 p.m., I received
24 a call from Mr. Clark. He stated that the citations
25 in the Compliance Advisory were not accurate or

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1 valid, that the company was actually in compliance;
2 that Pine Factory shouldn't even be regulated; that
3 the company has no money to pay and that they were
4 not going to pay.
5 Mr. Clark felt that these were small
6 infractions and did not warrant disciplinary actions
7 taken by DAQ, that he could not pay his penalty and
8 will not -- oh, and that the penalties would put Pine
9 Factory out of business.
10 He also, again, talked to me about family
11 illness and death, and, you know, the death of his
12 father. And, you know, this is a family-run business
13 and that those issues were all aggravating factors in
14 his failure to give me records. He also gave me a
15 cell number to call him by in the event that I needed
16 to get ahold of him in the future.
17 We had discussed where to go from here.
18 He indicated that he had had good success in the past
19 working with the Attorney General's office when he
20 didn't want to settle a violation approximately five
21 years before the inspection for failure to provide
22 records.
23 That violation was eventually settled for
24 \$500 after the Attorney General's office sent him a
25 letter indicating that the Division's offer was

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1 extremely generous and that he should take that
2 offer. So I told him that I would call him if we
3 referred the case to the Attorney General's office.
4 I called him on July 11th of 2005 and indicated that
5 a packet would be assembled and submitted to the
6 Attorney General's office.
7 Q. Okay. What's Exhibit 11?
8 A. Exhibit 11 is a notification by Melissa
9 Hubbell of the Attorney General's office that -- just
10 kind of a statement of facts, and that the Attorney
11 General's office will be taking the case giving Mr.
12 Clark an attendant period to contact the Attorney
13 General's office before they proceeded with formal
14 notice and violation.
15 Q. Okay. Do you know if Mr. Clark received
16 that?
17 A. The next page is a copy of the certified
18 mail receipt which indicates that the item was
19 returned to sender as unclaimed.
20 Q. Could we move onto Exhibit Number 12?
21 A. Exhibit 12 is the Notice of Violation and
22 Order for Compliance for the Pine Factory. It is --
23 was issued. It's a formal citation of noncompliance
24 to the company based on the same conditions which
25 were cited in the Compliance Advisory.

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1 Q. Okay. Do you know if Mr. Clark received
2 this?
3 A. I believe that this document was actually
4 served to Mr. Clark by a process server, rather than
5 certified mail. And it appears as though, based on
6 the stamp on the front of the document, that it was
7 actually served on November 2, 2005, at 10:30 a.m.
8 MS. HUBBELL: Okay. Do you have any
9 questions for Mr. Leishman?
10 MR. WESSMAN: No.
11 Q. (By Ms. Hubbell) All right. I'll simply
12 call your attention to Exhibit 13, which is another
13 letter from Mr. Clark a month after the Notice of
14 Violation was served, and this is dated December 2,
15 2005, and is his request for hearing.
16 And Exhibit 14 is attached. It's simply
17 some documents concerning the Notice of Hearing and
18 notifying him of the hearing.
19 MR. WESSMAN: A question on the facts that
20 indicates December 2nd of 2005; is that correct?
21 MS. HUBBLE: Yes.
22 MR. WESSMAN: That's when he requested the
23 hearing?
24 MS. HUBBLE: Yes.
25 MR. WESSMAN: Okay. In his --

<p style="text-align: right;">37</p> <p>1 MS. HUBBLE: He first called my office and 2 left a message on the phone and then faxed this the 3 same day. 4 MR. WESSMAN: Okay. Thank you. 5 MS. HUBBLE: I'm aware that at the top of 6 the document, the fax record shows it as 12/18/2004. 7 I can only assume that that's the set on his fax 8 machine and that it's incorrect, because I did 9 receive this the same day he called. 10 MR. WESSMAN: Right. Okay. All right. 11 MS. HUBBLE: I would request that all of 12 these exhibits be admitted and made part of the 13 record. 14 MR. WESSMAN: Okay. Let's admit them as 15 part of the record. Do I have to -- the documents 16 are admitted as part of the record. Make a 17 declarative statement. Okay. 18 (EXHIBITS-1 THROUGH -14 WERE ADMITTED.) 19 MS. HUBBLE: And I have no further 20 questions for the witness. 21 MR. WESSMAN: Okay. Thank you. 22 Just to make sure, I think we've covered 23 this, but at no time that you're aware of has Mr. 24 Clark requested a change in status of the Approval 25 Order?</p>	<p style="text-align: right;">39</p> <p>1 regulations. But do I have an obligation to notify 2 the State that -- particularly the Air Quality 3 Division, that I've set up a paint booth? 4 THE WITNESS: No. 5 MR. WESSMAN: Do I have any expectation 6 that I would be inspected, provided I maintain 7 operations in a way that doesn't create a nuisance or 8 something that makes the State aware of my 9 enterprise? 10 THE WITNESS: No. 11 MR. WESSMAN: So if he had basically shut 12 down his previous business, started in this new 13 business and new location there, he would have no 14 obligations to apply provided he was under these five 15 tons a year? 16 THE WITNESS: Yes. 17 MR. WESSMAN: Okay. Well, part of what 18 seems to be his argument is that the rules don't 19 apply to him because he is de minimus or is below the 20 five tons. I'm not saying that the air permit is not 21 valid -- or Approval Order, but I'm just trying to 22 sort out in my own mind, once an Approval Order is 23 issued, you've got to apply with it until the 24 quarters change. And I understand that, or at least 25 that's my understanding.</p>
<p style="text-align: right;">38</p> <p>1 THE WITNESS: No. Mr. Clark actually 2 should have requested a change in status of the 3 Approval Order approximately five years before the 4 inspection when he changed locations and when he 5 changed operations. He was never cited for that. 6 He -- we actually lucked into finding him 7 at his new location. And when we cited him for 8 failure to give records five years earlier, he -- 9 that was the only citation that we had made at the 10 time. 11 But -- so at that point, he should have at 12 least modified his Air Quality Approval Order, but he 13 hasn't done that. He has yet to, to the best of my 14 knowledge, even consider applying for modification to 15 his Air Quality Approval Order. 16 MR. WESSMAN: Without in any way 17 suggesting that he didn't have to, I have a question. 18 If I were to go into the business tomorrow in this 19 industry, and I set up a paint booth, and I'm going 20 to be less than five tons a year criteria pollutant, 21 what do I need to do? 22 THE WITNESS: You would need to comply 23 with the Utah Administrative Code as it relates to 24 your business. 25 MR. WESSMAN: Right. Obey all laws and</p>	<p style="text-align: right;">40</p> <p>1 THE WITNESS: Yes. 2 MR. WESSMAN: Melissa, is that correct? 3 MS. HUBBLE: Yes. Let me -- I have I 4 guess what you would call a summary. And in this 5 case, we have someone who we have dealt with in the 6 past who had previous violations and those were 7 resolved. 8 MR. WESSMAN: Now, that was ten years ago, 9 right? 10 MS. HUBBLE: Five years ago. 11 MR. WESSMAN: Five? 12 MS. HUBBLE: Yes. In this case, Mr. 13 Leishman is required to do these annual inspections 14 and he went out to do it. He carried the Approval 15 Order with him and cited him for those that he felt 16 did not comply with the Approval Order. He asked for 17 records, which he did not receive. He then attempted 18 to -- and you've seen the record here of the numerous 19 attempts to deal with Mr. Clark. 20 The Division has gone far beyond any 21 requirements. All they're required to do is mail 22 these things. And they sent them every time by 23 certified mail, and then Mr. Leishman, himself, would 24 take them and hand deliver them, and explain to Mr. 25 Clark exactly what needed to be done. They tried to</p>

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1 set up several conferences. And at that time, things
2 could have been resolved.

3 Mr. Clark was informed that he could apply
4 to have his Approval Order taken care of, but he
5 chose not to do that. He chose not to come to any of
6 the meetings. He chose simply to say, you know, "I
7 shouldn't be regulated."

8 MR. WESSMAN: Excuse me, but that -- I'm
9 not sure that I've heard in the record that he was
10 ever advised that he could have his Approval Order
11 taken care of.

12 MS. HUBBELL: Isn't that what you
13 testified, that he could apply for --

14 THE WITNESS: Yeah. In the telephone
15 conversations with him, I had indicated when he told
16 me that the rules don't apply, that he's only eight
17 pounds over the limit. In my work as an inspector we
18 take on sometimes a little bit of an advisory role.
19 We have some kind of teaching moments at times. A
20 lot of times, you know, we don't necessarily advise
21 the companies, but we're a good resource for what
22 rules apply.

23 In his statements that he was only eight
24 pounds over the limit for a single pollutant, I asked
25 him if he had considered alternative materials that,

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1 you know, maybe some water-based stains or something
2 like that to bring his total down; and, you know that
3 if he were able to be under the de minimus amounts,
4 that he could apply for that. Those have been in the
5 discussions with Mr. Clark.

6 I think he's well aware of those. And
7 that's why he would bring up, himself, the fact that
8 he doesn't believe that the company is required to
9 have any regulations on them. I think that is the
10 basis for that.

11 MR. WESSMAN: So you have informally
12 counseled him on the opportunity he would have to
13 apply to a different status --

14 THE WITNESS: Yes.

15 MR. WESSMAN: -- if he changed his
16 operations or whatever to be under the minimum level.

17 THE WITNESS: Yes. And I believe he's
18 well aware of those.

19 MR. WESSMAN: Okay.

20 Q. (By Ms. Hubbell) Okay. Let me ask you
21 another question that this just made me think of.
22 The Division doesn't have an obligation to apply for
23 the change to the Approval Order for the individual,
24 do they?

25 A. No.

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1 Q. And even if you did, would you have been
2 able, based on the record he provided you, to know
3 what -- I mean, was that sufficient to provide you
4 with information that made it --

5 A. No. No. If he were to apply for a de
6 minimus status, he would need to provide adequate
7 documentation to show that his emission rates are
8 actually below the de minimus values.

9 Q. And the VOC report he provided you --

10 A. That wouldn't -- that wouldn't suffice as
11 adequate information, no.

12 Q. Okay. But if he had come to some of these
13 meetings, you might have been able to inform him
14 again of what was necessary?

15 A. Yes, possibly. If he were to ask about
16 it, we probably could have provided at least some
17 guidance that would have helped him if that were the
18 route he wanted to go.

19 Q. Okay.

20 If I could finish. In this case, I think
21 it's obvious from the record that he's been very
22 difficult to deal with. We had to have the Notice of
23 Violation served on him by a process server. And,
24 you know, he's had infinite opportunities to try and
25 deal with this matter without even having the Notice

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1 of Violation and Order issued. We only did that as a
2 last resort because we were simply getting no
3 response from him.

4 If at this point in time Mr. Clark wishes
5 to apply, he would still get the exemption. But at
6 the time that the Notice of Violation was issued, at
7 the time that the inspections were made, the Approval
8 Order was in force. There had been no application to
9 reduce it, and he was not meeting the requirements of
10 that Approval Order.

11 That Approval Order was what he was
12 operating under and what he was required to operate
13 under until such a time as the Approval Order was
14 modified, or dismissed, or changed in some way.

15 But none of that has ever happened. At
16 this point in time, the Approval Order is still in
17 force. And based on the fact that he violated that
18 Approval Order, I would ask that that Notice of
19 Violation and Order be upheld and that that be the
20 recommendation you make to the Board.

21 MR. WESSMAN: Okay. Thank you. I don't
22 think I have any questions for that.

23 Let's see, Jeff, you've been sworn. Do
24 you have any comments?

25 MR. DEAN: Yeah. I would like to make a

<p style="text-align: right;">45</p> <p>1 comment. As easily as we are talking about the de 2 minimus status of this source and speculating that 3 they could be de minimus, based on a lack of records 4 from the company, it's as easy to speculate that the 5 source may be a synthetic minor or a major hazardous 6 air pollutant source. We don't have the records to 7 confirm that at this point. 8 MR. WESSMAN: Right. You have no -- 9 paraphrasing what you said, you have no way of 10 verifying their status at this point, given what's 11 been provided. 12 MR. DEAN: Right. And he could easily, 13 from the date that he first got his Approval Order, 14 he could have easily increased production to a point 15 where he needed to have modified his Approval Order 16 to get a status that would have been even higher than 17 a minor source, the synthetic minor. 18 It only takes ten tons of one hazardous 19 air pollutant major Title 5 source. This could be 20 very well -- we could speculate that that is what's 21 going on and the reason we haven't gotten any records 22 from the company. 23 MR. WESSMAN: Okay. Thank you. 24 Any other comments? 25 MR. DEAN: No.</p>	<p style="text-align: right;">47</p> <p>1 gathered the facts I need to do so. 2 And so unless there's any other items to 3 bring before the hearing, I would like to close the 4 hearing, and thank you very much. 5 (Hearing adjourned at 2:39 p.m.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">46</p> <p>1 MR. WESSMAN: Okay. Rob, did you have any 2 more? 3 MR. LEISHMAN: No. 4 MR. NELSON: Counsel, do you have 5 anything? 6 MR. NELSON: I just want to enter onto the 7 record the fact that Mr. Clark, when he called me, 8 acknowledged having received a letter from me dated 9 April 12, 2006, which transmitted to him a copy of 10 the administrative record as has been received into 11 evidence and notifying him of the date of the 12 meeting, so that it's clear that he had the documents 13 that have been discussed today and that again he 14 relied upon his two submittals as his basis for 15 having you consider the recommendations to the Board. 16 With that being the case, the next step 17 would be for you to prepare a recommendation to the 18 Board and transmit to the Board the transcript of 19 this hearing and these documents, and have the Board 20 then make a final decision. 21 MR. WESSMAN: Okay. I understand that 22 that's the responsibility I have now is to prepare a 23 recommendation to the Board. 24 And I appreciate taking the time, all of 25 you, to help me understand this. I believe I've</p>	<p style="text-align: right;">48</p> <p>1 REPORTER'S CERTIFICATE 2 3 STATE OF UTAH } 4 COUNTY OF SALT LAKE } ss. 5 I, Shantae Rindfleisch, Registered 6 Professional Reporter and Notary Public in and for 7 the State of Utah, do hereby certify: 8 That on April 27, 2006, I was present at 9 the Pine Factory Hearing, and the proceedings were 10 reported by me in stenotype and thereafter 11 transcribed, and that a full, true, and correct 12 transcription of said proceedings is set forth in the 13 preceding pages, according to my ability to hear and 14 understand the proceedings; 15 That the original transcript was sealed 16 and delivered to the EPA for safekeeping. 17 18 WITNESS MY HAND AND OFFICIAL SEAL this 19 9th day of May, 2006. 20 21 22 23 24 25</p>

Exhibit 1

2408 8:14

Records taken then

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

057-00060
10953

Michael O. Leavitt
Governor
Dianne R. Nielson, Ph.D.
Executive Director
Russell A. Roberts
Director

150 North 1950 West
P.O. Box 144820
Salt Lake City, Utah 84114-4820
(801) 536-4000 Voice
(801) 536-4099 Fax
(801) 536-4414 T.D.D.

DAQE-880-95

September 26, 1995

Doug Clark
E & C Manufacturing
3150 Wall Avenue
Ogden, Utah 84401

Pre factory
2400 S. 2050 W.
Ogden

731-7463

Dear Mr. Clark:

RE: APPROVAL ORDER FOR WOOD SHOP OPERATION
WEBER COUNTY - CDS B ATT

The attached document is an Approval Order for the above referenced project.

Future correspondence on this Approval Order should include the engineer's name as well as the DAQE number as shown on the upper right-hand corner of this letter. Please direct any technical questions you may have on this project to Mr. Dale Chapman. He may be reached at (801) 536-4096.

Sincerely,

cell - 710-7986

Russell A. Roberts, Executive Secretary
Utah Air Quality Board

RAR:JTB:aj

cc: Salt Lake City/County Health Department
1954 E Ft. Union Blvd. #100
Salt Lake City, UT 84121

Store #
(801) 394-4005
12-6 pm

Records:

- left msg Tuesday 11/9/2004 for re
- Called Shop 9:50 am 11/12/04, can't leave m
- called Store got cell number 12:20 11/11
- called cell & left message 11/12/04 12:21
- called Shop, no answer, no message service, 11/15
- left msg @ shop 731-7463 1/10/04 9:45

Jesse
332-03
1/2/2005

AD 12/1/04 11-04

Abstract

This review is for an existing cabinet and furniture manufacturing facility located in Ogden, Utah. The existing facilities include wood cutting and milling machinery, sawdust handling equipment and two finishing rooms, each with one paint spray booth.

The above-referenced project has been evaluated and found to be consistent with the requirements of the Utah Air Conservation Rules (UACR) and the Utah Air Conservation Act. A 30-day public comment period was held and all comments received were evaluated. The conditions of this AO reflect any changes to the proposed conditions which resulted from the evaluation of the comments received. This air quality AO authorizes the project with the following conditions and failure to comply with any of the conditions may constitute a violation of this order:

General Conditions:

1. This AO applies to the following company:

✓ C & C Manufacturing
3150 Wall Avenue
Ogden, UT 84401
(801) 621-6203

*Notification of new location
12/10/1999*

The equipment listed in Condition #5 of this AO shall be operated at the above location.
Universal Transverse Mercator Coordinate System: 4,565,000 m Northing,
420,000 m Easting

2. Definitions of terms, abbreviations, and references used in this AO conform to those used in the UACR, Utah Administrative Codes (UAC), American Society of Testing & Materials, (ASTM) and Series 40 of the Code of Federal Regulations (40 CFR). These definitions take precedence unless specifically defined otherwise herein.
3. C & C Manufacturing shall operate the wood cabinet and furniture manufacturing facility according to the information submitted in the Notice of Intent dated February 22, 1993 and additional information submitted to the Executive Secretary dated March 10, 1993.
4. A copy of this AO shall be posted on site. The AO shall be available to the employees who operate the air emission producing equipment. These employees shall receive instruction as to their responsibilities in operating the equipment according to all of the relevant conditions listed below.
5. The approved installations shall consist of the following equipment:
 - A. Sawdust collection system consisting of: (not a source)

gone
Sawdust collection ductwork,

One cyclone, (9' cone x 4' diameter), exhausting to, One Fabric filter/ baghouse, (201 ft² total filter area), located inside the manufacturing building and exhausting inside the manufacturing building.

*gone
never installed
@ new location*

B. Two paint/coating spray booths, each 8' long x 8' wide:

*one
8x16*

6. The paint spray booth shall be equipped with paint arrestor particulate filters, (or equivalent), to control particulate emissions. All air exiting the booth shall pass through this control system before being vented to the atmosphere. Equivalency shall be determined by the Executive Secretary.

*Needs
new Filters*

R

7. The volatile organic content, (VOC), of the coatings used in the paint booth shall not exceed 7.5% by weight without prior approval in accordance with R307-1-3.1, UAC. The VOC content shall be tested if directed by the Executive Secretary using the appropriate ASTM method or another method approved by the Executive Secretary.

8. The plantwide emissions of VOC from the paint booths, shall not exceed 15 tons per 12-month period. This value shall not be exceeded without prior approval in accordance with R307-1-3.1, UAC. Compliance with the limitation shall be determined on a rolling 12-month total. Based on the first day of each month a new 12-month total shall be calculated using data from the previous 12 months.

R

The plantwide emissions of VOC shall be determined by maintaining a record of VOC containing materials used each month. The record shall include the following data for each item used:

- A. Name of the VOC emitting material, such as; paint, adhesive, solvent, thinner, reducers, chemical compounds, toxics, isocyanates, etc.
- B. Percent by weight of all VOC and Hazardous Air Pollutants (HAPs) for each individual material used. The recommended source of the information is from the manufacturers MSDS¹ sheet
- C. The amount of VOCs and HAPs contained in each individual item or surface coating used shall be calculated by the following procedure:

$$\text{VOC} = (\% \text{ Volatile by Weight}/100) * (\text{Density lb/gal}) * (\text{Gallons Consumed})/2,000 \text{ lb/ton}$$

¹ MSDS = Material Safety Data Sheets. Obtain from manufacturer.

- D. The cumulative total of the 12 previous months VOC emissions shall not exceed the amount specified above.
- E. Records of consumption shall be kept for all periods when the plant is in operation. Records of consumption shall be made available to the Executive Secretary upon request, and shall include a period of two years ending with the date of the request.
9. All HAPs are subject to the annual Operating Permit Program if one of the following conditions is met:
- a. The emissions of any one of the 189 HAPs listed in the 1990 Clean Air Act is over ten (10) tons/yr
 - b. The emissions of any combination of these HAPs are over 25 tons/yr
10. Visible emissions from any point or fugitive emission source associated with the installation or control facilities shall not exceed 10% opacity. Opacity observations of emissions from stationary sources shall be conducted in accordance with 40 CFR 60, Appendix A, Method 9.
11. Sawdust collected by the cyclone shall be transferred to an enclosed storage device for subsequent disposal. The system shall comply with Condition #10 above.
12. All records referenced in this AO which are required to be kept by the owner/operator, shall be made available to the Executive Secretary or his representative upon request.
13. All installations and facilities authorized by this AO shall be adequately and properly maintained. All pollution control equipment shall be installed, maintained, and operated. Instructions from the vendor or established maintenance practices that maximize pollution control shall be used.
14. The owner/operator shall comply with R307-1-4.7, UAC. This rule addresses unavoidable breakdown reporting requirements. The owner/operator shall calculate/estimate the excess emissions whenever a breakdown occurs. The total of excess emissions shall be reported to the Executive Secretary as directed for each calendar year.

Any future modifications to the equipment approved by this order must also be approved in accordance with R307-1-3.1.1, UAC.

This AO in no way releases the owner or operator from any liability for compliance with all other applicable federal, state, and local regulations including the UACR.

Annual emissions for this source (the entire plant) are currently calculated at the following values:

<u>Pollutant</u>	<u>Tons/yr</u>
------------------------	----------------

A.	Particulate.....	4.03
B.	PM ₁₀	4.03
C.	SO ₂	0.00
D.	NO _x	0.00
E.	CO	0.00
F.	VOC	15.00

These calculations are for the purposes of determining the applicability of Prevention of Significant Deterioration and Nonattainment area major source requirements of the UACR. Except for VOC they are not to be used for purposes of determining compliance.

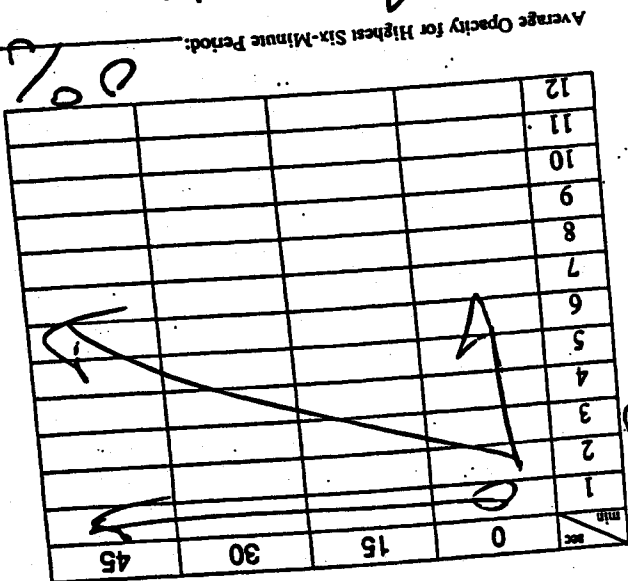
Approved By:

Russell A. Roberts, Executive Secretary
Utah Air Quality Board

Exhibit 2

Type of Inspection: Initial () Partial Initial () Stack Test () CEM () Annual () Followup () Surveillance () Complaint ()

Observation Date: 11/4/2004
Start Time: 12:15 Stop Time: 12:21



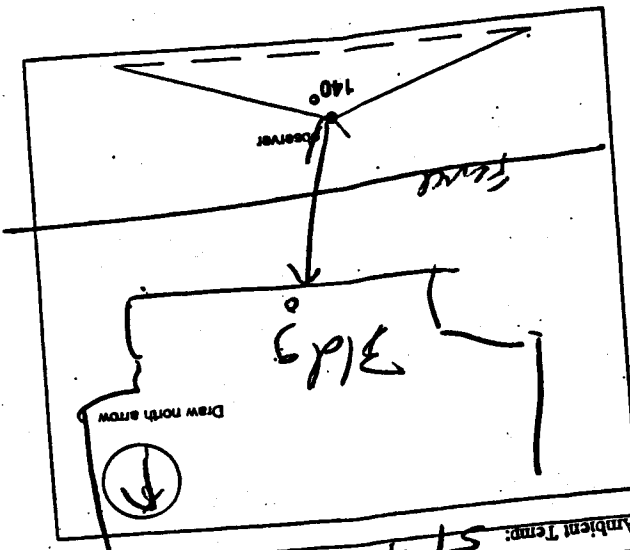
Comments: No visible emissions observed from the point source. The point associated with the operation was missing (5 points) but were on order to replace.

Some open stain containers were observed (2 buckets) but were covered during the inspection.

Records will be fixed to DQO when Doug Clark returns and answers all marks.

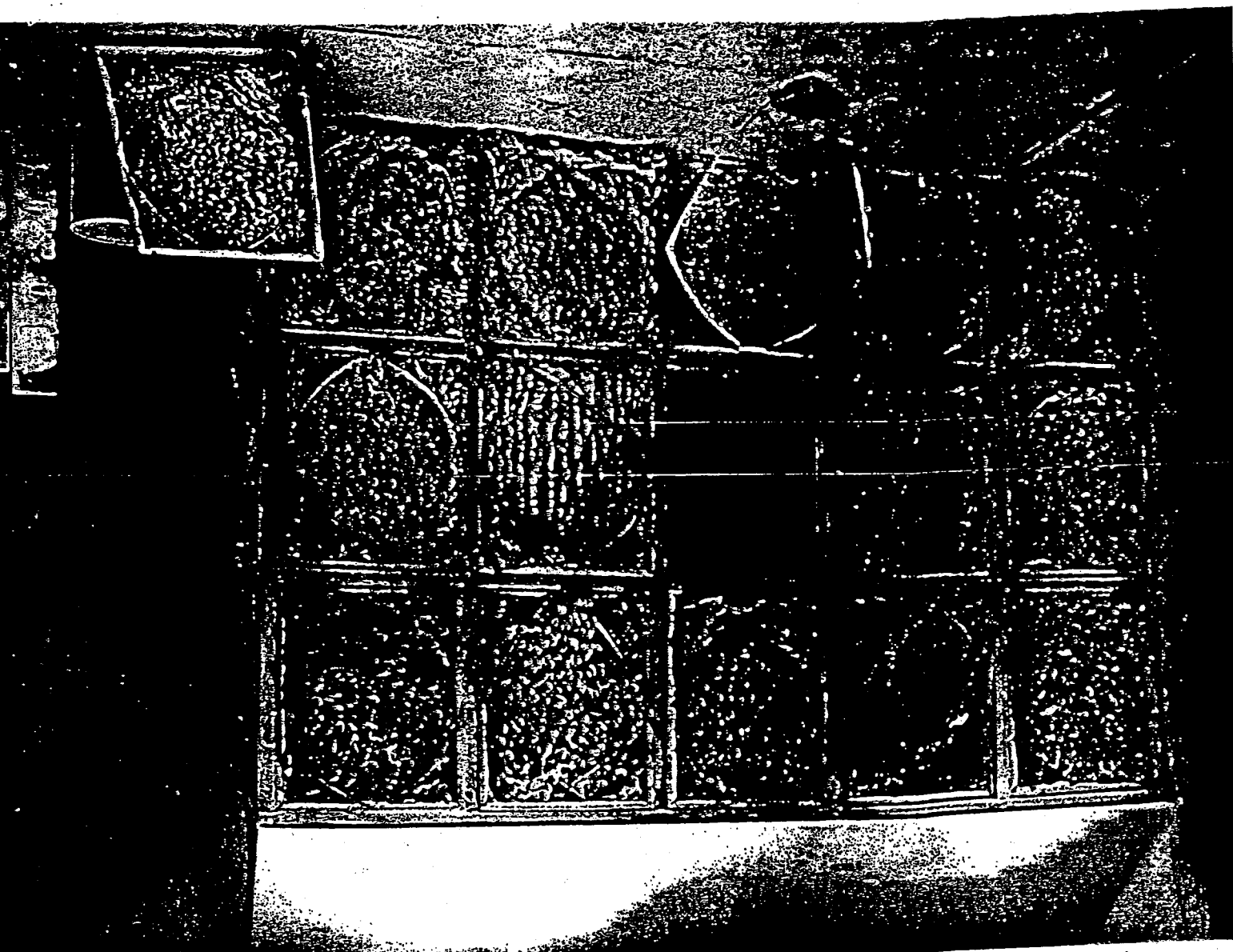
Source Name: Pine Factory 2000 West 2400 South 2000 West
City/County: Ogden/Utah County
Phone: (801) 721-7463
AIRS ID: 057-00060
EPA ID: 104 10953
Facility: Wood Working/Coating
Equipment: Wood Working/Coating
Control Equipment: Filters, good vnc
Handling: 3 change practices
Emission Point: whole plant

Height of Discharge Relative to Observer: 15 feet
Distance from Observer: 40 feet
Condensed Water Vapor Present? Y/N
Attached ☐ Detached ☐
Length of Condensed Water Vapor Plume: N/A
Background: SKY/BLU
Sky Conditions: Clear ☒ Partly Cloudy ☐ Overcast ☐
Wind Direction: West
Wind Speed: 0-3 mph
RH: 30
Ambient Temp: 51 F



Sun ☉
Wind
Emission Point with Plume
Observer's Signature: [Signature]
Affiliation: State of Utah, Department of Environmental Quality
Division of Air Quality
I Have Received a Copy of These Observations:
Printed Name: Paul Clark

MKSA



Picture taken 12/27/2004
Paint booth filters caked
w/ overspray, filters
missing after advised to
replace during 11/14/04 inspection
1/10/2004

Exhibit 3



OLENE S. WALKER
Governor

GAYLE F. McKEACHNIE
Lieutenant Governor

FILE COPY

State of Utah
Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF AIR QUALITY
Richard W. Sprott
Director

DAQC-1546-2004
Site ID# Blue-10953-1

November 16, 2004

Certified Mail

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

Dear Mr. Clark:

Re: Pine Factory - Annual Compliance Inspection Conducted November 4, 2004 - Approval Order (AO) Dated September 26, 1995, Conditions 7 and 8 - VOC emission records - Weber County

On November 4, 2004, a compliance inspection was conducted at the Pine Factory production plant on 2480 South 2050 West, Ogden, Utah. The employees on site at the time of the inspection were not able to provide records required to determine compliance with Conditions 7 and 8 of the AO dated September 26, 1995. Several attempts have been made by calling the shop and the store to leave a message and arrange to get the required records to complete this inspection.

AO Condition 7 limits all coatings to a VOC content not to exceed 7.5%. Records to show that the coatings are compliant with this limit are necessary to show that the company is in compliance with this condition.

AO Condition 8 limits VOC emissions from the entire plant to 15 tons per 12-month period. The condition specifies what records are required each month to determine compliance with this limit. A rolling 12-month total, where each month, a new 12-month total is recalculated using the required data from the previous 12 months, is necessary to determine compliance with this limit.

Since all attempts to contact you by phone to obtain the necessary records have failed, this certified letter will be used to determine whether Pine Factory is in compliance with the conditions cited in the AO. The following records are hereby formally requested in order to complete this inspection:

Condition 7: Copies of any records, such as MSDS sheets or manufacturers specification sheets that show the VOC content of any and all coatings used at this facility.

Condition 8: The rolling 12-month total of VOC emissions for the period of November 2003 through October 2004, for the entire plant to include all coatings and solvents used or purchased for use during that period. The records shall include all support information required in Conditions 8.A through 8.C.

This letter is not intended to be a formal compliance action, only a formal request for records since all other attempts to obtain records have failed. Records will be received by DAQ within 7 days of receipt of this certified letter. If records are not received within 7 days of Pine Factory's receipt of this letter, the inspection will be concluded with Pine Factory failing to provide records required by the AO and compliance actions will likely follow.

Your cooperation in complying with this formal request for records is appreciated. If you have any questions, please contact Rob Leishman at (801) 536-4438.

Sincerely,



Bryce C. Bird, Manager
Air Standards Branch
Division of Air Quality

BCB:RL:aj

Cc: EPA Region VIII, Carol Smith
Davis County Health Department



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF AIR QUALITY
Richard W. Sprott
Director

OLENE S. WALKER
Governor

GAYLE F. McKEACHNIE
Lieutenant Governor

Original

Hand Delivered 12/27/04

B: C.A.

Caesar Ariis

main shop

DAQC-1546-2004

Site ID# Blue-10953-1

4037 Riverdale Rd.

Hand Delivered @ Store

TO: Kara Lamm

12/27/04 Kara Lamm

November 16, 2004

Certified Mail

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

Dear Mr. Clark:

Re: Pine Factory - Annual Compliance Inspection Conducted November 4, 2004 - Approval Order (AO) Dated September 26, 1995, Conditions 7 and 8 - VOC emission records - Weber County

On November 4, 2004, a compliance inspection was conducted at the Pine Factory production plant on 2480 South 2050 West, Ogden, Utah. The employees on site at the time of the inspection were not able to provide records required to determine compliance with Conditions 7 and 8 of the AO dated September 26, 1995. Several attempts have been made by calling the shop and the store to leave a message and arrange to get the required records to complete this inspection.

AO Condition 7 limits all coatings to a VOC content not to exceed 7.5%. Records to show that the coatings are compliant with this limit are necessary to show that the company is in compliance with this condition.

AO Condition 8 limits VOC emissions from the entire plant to 15 tons per 12-month period. The condition specifies what records are required each month to determine compliance with this limit. A rolling 12-month total, where each month, a new 12-month total is recalculated using the required data from the previous 12 months, is necessary to determine compliance with this limit.

Since all attempts to contact you by phone to obtain the necessary records have failed, this certified letter will be used to determine whether Pine Factory is in compliance with the conditions cited in the AO. The following records are hereby formally requested in order to complete this inspection:



DEPARTMENT OF
ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY
PO BOX 144820
SALT LAKE CITY, UT 84114-4820

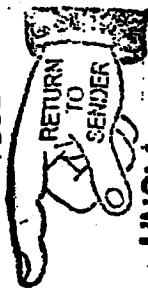
The State of Utah

RETURN SERVICE REQUESTED

RECEIVED

DEC 20 2004

AIR QUALITY



UNCLAIMED
DOUG CLARK
PINE FACTORY

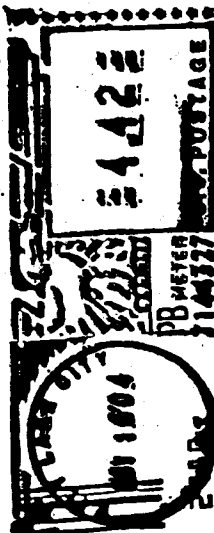
2480 S 2050 W

OGDEN UT 84401

CERTIFIED MAIL



7002 0510 0000 6392 2480 W



11-20
12-07
12-12
2nd Notice
B.A. 11/11

Exhibit 4



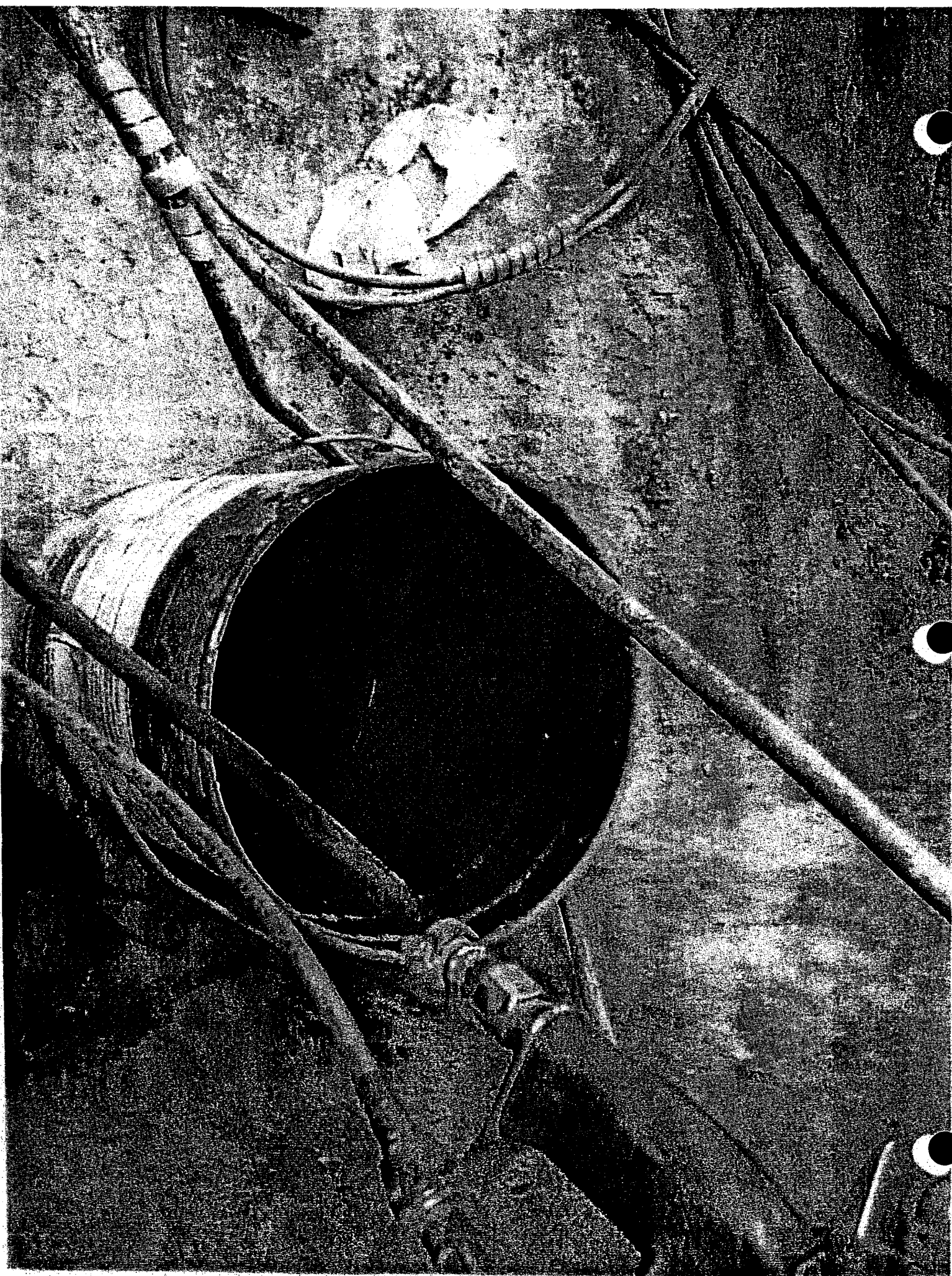


Exhibit 5

MEMORANDUM

TO: Source File - PINE FACTORY
THROUGH: Jeff Dean, Environmental Programs Manager, Compliance Section
FROM: Rob Leishman, Environmental Scientist
DATE: January 12, 2005
SUBJECT: PINE FACTORY, B, Weber County, 057-00060

TYPE OF INSPECTION: Full Annual Inspection
DATE OF INSPECTION: November 4, 2004
Follow-up Site Visit: December 27, 2004
MULTIPLE INSPECTION SOURCE: No
FFY QUARTER ASSIGNED: First Quarter FFY 2005
SOURCE LOCATION: 2480 South 2050 West, Ogden, Weber County
SOURCE CONTACTS: Rulon Clark - Employee
Caesar Ariis - Main Shop Employee
Kara Lamarr - Riverdale Store Employee

OPERATING STATUS:
The shop was operating at the time of the November inspection. The paint booth was observed in use during the inspection with filters missing.

PROCESS DESCRIPTION:
Raw pine logs are received at the facility after being rounded and cleaned off site. The wood is cut and shaped further to dimensions required for various furniture models. Once the pieces are made, the furniture is assembled and finished. The finishing lacquer and stain are applied by paint spray gun in a spray booth. The spray booth is equipped with particulate filters. The finish materials sprayed are stored in a sealed closet and the entire paint system is sealed out to the spray gun. Particulate from cutting, drilling, shaping and sanding of the wood is collected in several internal dust collection socks that vent back inside the building. The sawdust collected is placed in a metal bin for disposal off site.

APPLICABLE REGULATIONS: AO dated September 26, 1995 (DAQE-880-95)

SOURCE INSPECTION EVALUATION:
General AO Conditions:

1. This AO applies to the following company:

C & C Manufacturing
3150 Wall Avenue
Ogden, UT 84401
(801) 621-6203

The equipment listed in Condition #5 of this AO shall be operated at the above location. Universal Transverse Mercator Coordinate System: 4,565,000 m Northing, 420,000 m Easting

Status:

The company name and location listed above are incorrect. The correct location of the manufacturing operation is 2480 South 2050 West, Ogden. The original location was lost to fire and the company moved to its current location in 1999. A letter dated February 13, 2000, was submitted after a 12/10/1999 inspection, indicating that the plant had moved as a result of the fire. The new location is less than a half-mile from the old location.

2. Definitions of terms, abbreviations, and references used in this AO conform to those used in the UACR, Utah Administrative Codes (UAC), American Society of Testing & Materials, (ASTM) and Series 40 of the Code of Federal Regulations (40 CFR). These definitions take precedence unless specifically defined otherwise herein.
3. C & C Manufacturing shall operate the wood cabinet and furniture manufacturing facility according to the information submitted in the Notice of Intent dated February 22, 1993 and additional information submitted to the Executive Secretary dated March 10, 1993.

Status:

The company name is Pine Factory. See status of each condition below for compliance details.

4. A copy of this AO shall be posted on site. The AO shall be available to the employees who operate the air emission producing equipment. These employees shall receive instruction as to their responsibilities in operating the equipment according to all of the relevant conditions listed below.

Status:

A copy of the AO was left onsite to post. The AO was posted in a common area at the facility. In compliance.

5. The approved installations shall consist of the following equipment:

A. Sawdust collection system consisting of: (not a source)

- Sawdust collection ductwork,
- One cyclone, (9' cone x 4' diameter), exhausting to, One Fabric filter/baghouse, (201 ft² total filter area), located inside the manufacturing building and exhausting inside the manufacturing building.

B. Two paint/coating spray booths, each 8' long x 8' wide.

Status:

Each piece of equipment now had its own sawdust collection bag that vents into the building. The cyclone was installed at the previous location and was never installed at the current location. The paint booth at the new location is approximately 20 feet x 10 feet in size, and there is only one booth instead of the two that were previously approved. Since the total area of the filter banks has not increased and the emissions are not likely to have increased due to the increased paint booth size, this is not considered to be a compliance issue at this time. In compliance.

6. The paint spray booth shall be equipped with paint arrestor particulate filters, (or equivalent), to control particulate emissions. All air exiting the booth shall pass through this control system before being vented to the atmosphere. Equivalency shall be determined by the Executive Secretary.

Status:

The paint spray booths were equipped with particulate filters. However, during the first inspection on November 4, 2004, it was noted that 5 filter panels were removed. During the December 27, 2004, follow-up, the paint booth was photographed with two of the filters still missing and the remaining filters covered with excessive overspray. Rulon Clark, the owner's father, was told during the inspection to make sure that the filters were replaced. The filters were not replaced as directed. Pine Factory was not in compliance with this condition.

7.

The volatile organic content, (VOC), of the coatings used in the paint booth shall not exceed 7.5% by weight without prior approval in accordance with R307-1-3.1, UAC. The VOC content shall be tested if directed by the Executive Secretary using the appropriate ASTM method or another method approved by the Executive Secretary.

Status:

A compliance determination could not be made based on this condition at the time of the inspection, or during the writing of this memo. Pine Factory was given numerous opportunities to provide the necessary records to determine compliance with the conditions of this AO. However, no records were ever provided. The following details the attempts to obtain records for the Pine Factory operations:

<u>Date</u>	<u>Activity</u>
11/4/2004	Records were requested during the inspection. A note was made on the VEO form to indicate that arrangements will be made to obtain the records from Doug Clark.
11/9/2004	Left a message on an answering machine at the listed phone number for the shop (801) 731-7463 requesting records.
11/12/2004	Called the shop number at 9:50am to request records. Answering service was turned of or not working.
11/12/2004	Called the store in Riverdale at 12:20pm and got a cell phone number for Mr. Clark.
11/12/2004	Called the cell phone number (801) 710-7986, and left a message to call me to arrange to send me records at 12:20pm.
11/15/2004	Called the shop number, no answer and no message service (9:20am).
11/20/2004	First attempt to send certified mailed written request for records (DAQC-1546-04) was recorded by US Postal service.
12/7/2004	Second attempt to deliver written request for records by certified mail was made.
12/12/2004	Third and final attempt to deliver written request for records by certified mail was made by US Postal Service. The certified mail was returned to DAQ on 12/20/2004 as undeliverable.
12/27/2004	The original written request for records was hand delivered by Rob Leishman and Jay Morris at the shop location. The letter was handed to Caesar Ariis in the shop, who agreed to give the letter to Mr. Clark. A copy of the original was then hand delivered to the Riverdale store at 4037 Riverdale Road. The copy was received by Kara Lamarr on 12/27/2004.
1/10/2004	Called the shop number (801) 731-7463 and left a message notifying the shop that compliance action will be initiated due to the lack of response to the requests for records and other items noted during the inspection.

No further compliance determination could be made based on this condition since the company has failed to provide the necessary records. Pine Factory is considered to be out of compliance with this condition at this time.

8.

The plantwide emissions of VOC from the paint booths, shall not exceed 15 tons per 12- month period. This value shall not be exceeded without prior approval in accordance with R307-1-3.1, UAC. Compliance with the limitation shall be determined on a rolling 12-month total. Based on the first day of each month a new 12-month total shall be calculated using data from the previous 12 months.

The plantwide emissions of VOC shall be determined by maintaining a record of VOC containing materials used each month. The record shall include the following data for each item used:

- A. Name of the VOC emitting material, such as; paint, adhesive, solvent, thinner, reducers, chemical compounds, toxics, isocyanates, etc.
- B. Percent by weight of all VOC and Hazardous Air Pollutants (HAPs) for each individual material used. The recommended source of the information is from the manufacturers MSDS sheet
- C. The amount of VOCs and HAPs contained in each individual item or surface coating used shall be calculated by the following procedure:
$$\text{VOC} = (\% \text{ Volatile by Weight}/100) * (\text{Density lb/gal}) * (\text{Gallons Consumed})/2,000 \text{ lb/ton}$$
- D. The cumulative total of the 12 previous months VOC emissions shall not exceed the amount specified above.
- E. Records of consumption shall be kept for all periods when the plant is in operation. Records of consumption shall be made available to the Executive Secretary upon request, and shall include a period of two years ending with the date of the request.

Status:

A compliance determination could not be made based on this condition at the time of the inspection, or during the writing of this memo. Pine Factory was given numerous opportunities to provide the necessary records to determine compliance with the conditions of this AO. However, no records were ever provided. The following details the attempts to obtain records for the Pine Factory operations:

<u>Date</u>	<u>Activity</u>
11/4/2004	Records were requested during the inspection. A note was made on the VEO form to indicate that arrangements will be made to obtain the records from Doug Clark.
11/9/2004	Left a message on an answering machine at the listed phone number for the shop (801) 731-7463 requesting records.
11/12/2004	Called the shop number at 9:50am to request records. Answering service was turned of or not working.
11/12/2004	Called the store in Riverdale at 12:20pm and got a cell phone number for Mr. Clark.
11/12/2004	Called the cell phone number (801) 710-7986, and left a message to call me to arrange to send me records at 12:20pm.
11/15/2004	Called the shop number, no answer and no message service (9:20am).
11/20/2004	First attempt to send certified mailed written request for records (DAQC-1546-04) was recorded by US Postal service.
12/7/2004	Second attempt to deliver written request for records by certified mail was made.
12/12/2004	Third and final attempt to deliver written request for records by certified mail was made by US Postal Service. The certified mail was returned to DAQ on 12/20/2004 as undeliverable.
12/27/2004	The original written request for records was hand delivered by Rob Leishman and Jay Morris at the shop location. The letter was handed to Caesar Ariis in the shop.

who agreed to give the letter to Mr. Clark. A copy of the original was then hand delivered to the Riverdale store at 4037 Riverdale Road. The copy was received by Kara Lamarr on 12/27/2004.

1/10/2004 Called the shop number (801) 731-7463 and left a message notifying the shop that compliance action will be initiated due to the lack of response to the requests for records and other items noted during the inspection.

No further compliance determination could be made based on this condition since the company has failed to provide the necessary records. Pine Factory is considered to be out of compliance with this condition at this time.

9. All HAPs are subject to the annual Operating Permit Program if one of the following conditions is met:

- a. The emissions of any one of the 189 HAPs listed in the 1990 Clean Air Act is over ten (10) tons/yr
- b. The emissions of any combination of these HAPs are over 25 tons/yr

Status: According to the last time DAQ received records for HAP emissions from this facility, VOCs were well below limits to require a Title V application. This is not a Title V applicable facility. Not applicable at this time.

10. Visible emissions from any point or fugitive emission source associated with the installation or control facilities shall not exceed 10% opacity. Opacity observations of emissions from stationary sources shall be conducted in accordance with 40 CFR 60, Appendix A, Method 9.

Status: There were no visible emissions observed from the outside of the facility at the time of the inspection. In compliance.

11. Sawdust collected by the cyclone shall be transferred to an enclosed storage device for subsequent disposal. The system shall comply with Condition #10 above.

Status: There is no sawdust collection cyclone installed at this facility. This condition is no longer applicable.

12. All records referenced in this AO which are required to be kept by the owner/operator, shall be made available to the Executive Secretary or his representative upon request.

Status: Records were not provided during this inspection, nor were they provided during subsequent verbal and written requests. The following details the attempts to obtain records for the Pine Factory operations:

<u>Date</u>	<u>Activity</u>
11/4/2004	Records were requested during the inspection. A note was made on the VEO form to indicate that arrangements will be made to obtain the records from Doug Clark.
11/9/2004	Left a message on an answering machine at the listed phone number for the shop (801) 731-7463 requesting records.
11/12/2004	Called the shop number at 9:50am to request records. Answering service was turned of or not working.
11/12/2004	Called the store in Riverdale at 12:20pm and got a cell phone number for Mr. Clark.

- 11/12/2004 Called the cell phone number (801) 710-7986, and left a message to call me to arrange to send me records at 12:20pm.
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- 12/27/2004 The original written request for records was hand delivered by Rob Leishman and Jay Morris at the shop location. The letter was handed to Caesar Ariis in the shop, who agreed to give the letter to Mr. Clark. A copy of the original was then hand delivered to the Riverdale store at 4037 Riverdale Road. The copy was received by Kara Lamarr on 12/27/2004.
- 1/10/2004 Called the shop number (801) 731-7463 and left a message notifying the shop that compliance action will be initiated due to the lack of response to the requests for records and other items noted during the inspection.

No further compliance determination could be made based on this condition since the company has failed to provide the necessary records. Pine Factory is considered to be out of compliance with this condition at this time.

13. All installations and facilities authorized by this AO shall be adequately and properly maintained. All pollution control equipment shall be installed, maintained, and operated. Instructions from the vendor or established maintenance practices that maximize pollution control shall be used.

Status: The facility was not adequately and properly maintained at the time of the inspection. Paint booth filters were removed from the paint booth prior to the inspection on 11/4/2004. It was noted that 5 filters were removed. During the follow-up observations on 12/27/2004, two of the filters were still missing. Containers with VOC containing materials in them were also observed during the 11/4/2004 inspection. During the follow-up visit another container was observed left open in the paint booth area. Pine Factory was not in compliance with this condition during the inspection or follow-up visit.

14. The owner/operator shall comply with R307-1-4.7, UAC. This rule addresses unavoidable breakdown reporting requirements. The owner/operator shall calculate/estimate the excess emissions whenever a breakdown occurs. The total of excess emissions shall be reported to the Executive Secretary as directed for each calendar year.

Status: There were no records of reportable breakdowns as of the date of this inspection. This condition is not applicable at this time.

TITLE V SOURCE:

According to records obtained at the time of the last inspection, this is not a Title V applicable facility. No further Title V evaluation is necessary at this time.

EMISSION CAP AND EVALUATION:

VOC emissions were limited in Condition 8 of the AO. Records could not be obtained to determine compliance with those limits. There were no visible emissions observed. No further emissions cap evaluation could be made.

EMISSIONS INVENTORY:

Annual emissions were calculated by the review engineer as follows:

<u>Pollutant</u>	<u>Tons/Year</u>
PM10	4.03 tons
VOC	15.0 tons

Actual emissions are likely well below the levels listed above.

SOURCE INSPECTION SUMMARY EVALUATION:

There were no visible emissions observed from the outside of this building. The company has failed to provide records necessary to determine compliance with Conditions 7 and 8 of the AO as of the date of the inspection. The paint booth was not well maintained, with several filters missing, and the filters that were installed were covered with excessive overspray. VOC containers were left open during the inspection and follow-up visit. The company name and location do not match the current name and location, and the equipment listed in the AO does not match the air emissions producing equipment onsite. A letter faxed to DAQ in 2000 indicated that the company had moved and the name was changed, but an AO was never issued for these changes. At this time, it is recommended that DAQ issue a compliance advisory to Pine Factory for noncompliance with Conditions 6, 7, 8, 12 and 13.

Compliance History: Pine Factory was issued a NOV on January 14, 2000, for a violation of Condition 12, failure to provide records upon request.

Compliance Assistance: Attempts were made to educate company personnel on the importance of installing paint booth filters and covering VOC containers during the inspection. However, upon a second visit to the facility, it was apparent that this company does not routinely cover its VOC containers, and that paint booth filters are not routinely used in the center area of the paint booth filter bank. Several attempts were also made to request records over a two-month period. The company was given ample opportunity to provide records due to its history of trouble providing required records.

CURRENT RECOMMENDATIONS:

At this time, it is recommended that DAQ issue a compliance advisory to Pine Factory for noncompliance with Conditions 6, 7, 8, 12 and 13. Given that the records were not received after two months of requests and that issues related to the paint booth were observed uncorrected during a follow up visit nearly two months after the initial observation, Pine Factory should be considered uncooperative at this time.

HIGH PRIORITY VIOLATOR (HPV):

No - While Pine Factory has been uncooperative with this issue the violations could not be calculated as significant emissions-type violations that would fall under the HPV criteria.

RECOMMENDATION FOR NEXT INSPECTION:

Check that the paint booth filters are free of excessive overspray and that the filters are all in place. Also, make sure that the VOC containers are all covered. A new AO is recommended since there are more conditions that the company is out of compliance with than there are compliant items.

ATTACHMENTS:

VEO, Photos taken during the December 27, 2004, follow-up visit, ITM

INSPECTOR'S SIGNATURE:



Picture taken 12/27/2004
Open Vac Container in
the Paint Booth

[Signature] 1/10/2004

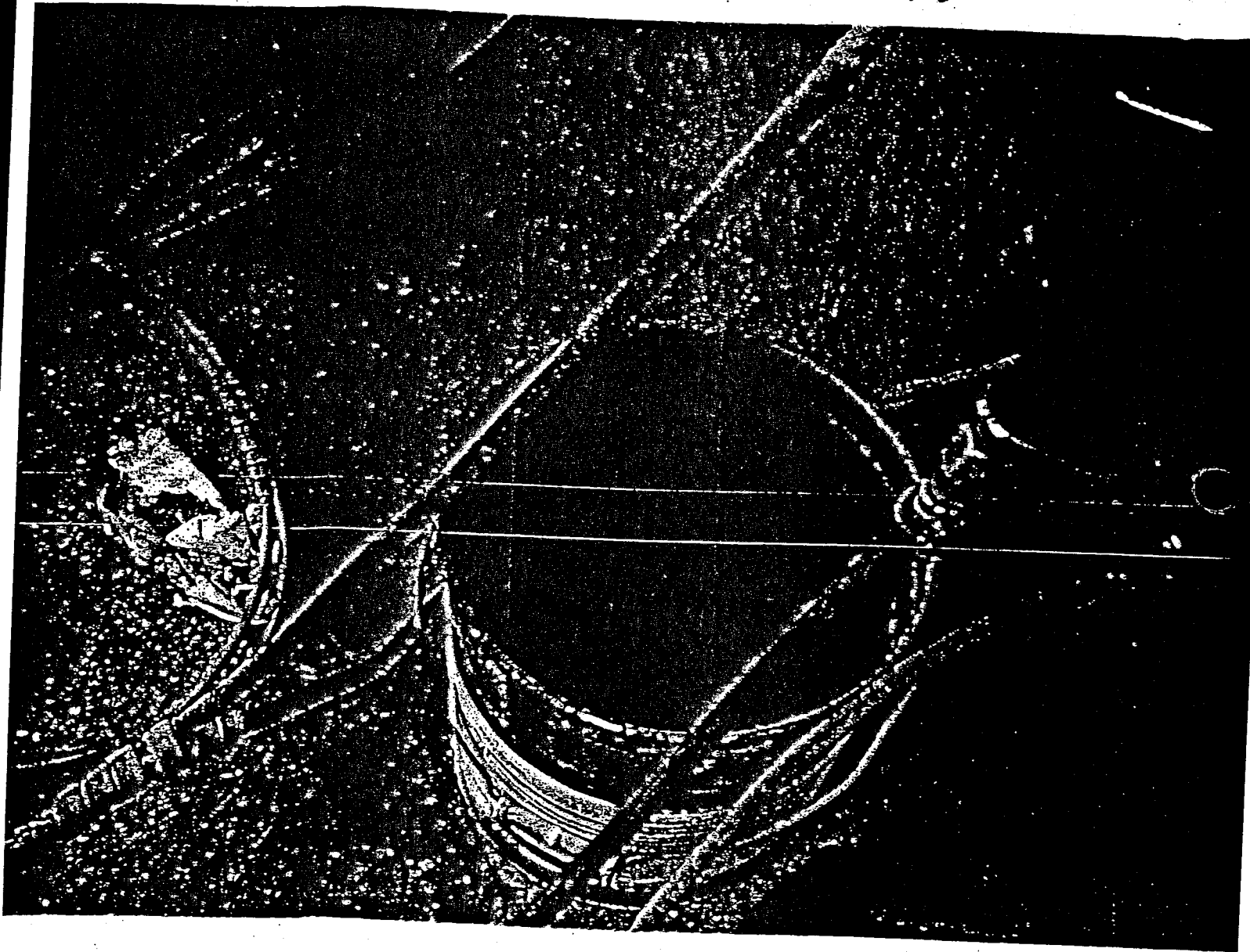


Exhibit 6



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF AIR QUALITY
Richard W. Sprott
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

RL

DAQC-078-2005
Site ID# Blue-10953-1

Certified Mail

January 13, 2005

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

Dear Mr. Clark:

RE: COMPLIANCE ADVISORY – Pine Factory – Approval Order (AO) dated September 26, 1995
Conditions 6, 7, 8, 12, and 13 – Compliance Inspection conducted November 4, 2004
Weber County, Utah

This Compliance Advisory documents information obtained by the Division of Air Quality (DAQ) on November 11, 2004, and December 27, 2004. The observations were conducted at the Pine Factory wood furniture manufacturing facilities in Ogden, Utah. The DAQ believes that the "Deficiencies" listed in the table below are violations of AO Conditions 6, 7, 8, 12, and 13 and implementing regulations.

This Compliance Advisory's sole purpose is to document the observations made by the DAQ on November 4, 2004, and December 27, 2004. Your response to the Compliance Advisory and prompt return to compliance will be considered in any enforcement action the DAQ may take as a result of the inspection. Possible actions taken by the DAQ include: mitigation of penalties, offering an early administrative settlement with appropriate penalty assessment, or issuing a Notice of Violation and Order to Comply (NOV).

Please be aware that you are responsible for complying with the Utah Air Conservation Rules and that there are possible administrative and civil penalties for failing to do so. Section 19-2-115 of the Utah Code Annotated provides that violators of the Utah Air Conservation Act and/or any order issued there under may be subject to a civil penalty of up to \$10,000 per day for each violation. This Compliance Advisory does not limit or preclude the DAQ from pursuing its enforcement options concerning this inspection.

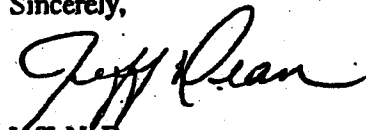
This Compliance Advisory is only applicable to the observations made during the November 4, 2004, inspection and follow-up visit on December 27, 2004. It does not limit the DAQ from pursuing enforcement action for any observations found during future inspections. The following steps must be taken by your company to close out this Compliance Advisory:

- A. Develop a schedule for correcting the deficiencies/potential deficiencies listed in the table below,
- B. Collect any information necessary to show that the Deficiencies and Potential Deficiencies (or any portion of them) are not violations of AO dated September 26, 1995, Conditions 6, 7, 8, 12, and 13.

A written response to this Compliance Advisory is required within 10 days of the date of this letter. Please submit the information required by A and B above with your response. Failure to submit a written response within 10 days of the date of this letter will be considered in any subsequent enforcement action and the assessment of penalties. Please refer to the date on this letter in your response.

You will be contacted after your written response is received and reviewed by the DAQ. If you have any questions about this Compliance Advisory, contact Rob Leishman at (801) 536-4438.

Sincerely,



Jeff N. Dean
Manager, Compliance Section

JND:RL:aj

cc:

Weber-Morgan Health Department

COMPANY:

Pine Factory

DATES OF NONCOMPLIANCE:

November 4, 2004 and December 27, 2004

On November 4, 2004, an inspector from the Division of Air Quality (DAQ) observed the paint booth in operation while several filter panels were not in place at 2480 South 2050 West in Ogden, Utah. The filters that were in place were excessively caked with overspray. At the time of the inspection, the inspector informed company personnel that the fouled filters would need to be replaced and that the filters that were missing would also need to be replaced. On a 12/27/2004 follow-up visit to the facility, the same missing filters were photographed out of place and the filters that were installed were still covered with excessive overspray. Failure to vent all air exiting the paint booth through filters is a violation of AO dated September 26, 1995, Condition 6.

AO Condition 6 states in part:

The paint spray booth shall be equipped with paint arrestor particulate filters, (or equivalent), to control particulate emissions. All air exiting the booth shall pass through this control system before being vented to the atmosphere.

On November 4, 2004, records were requested to determine Pine Factory's compliance with Conditions 7 and 8 of the AO. On November 9, 2004, a telephone message was left to have Pine Factory contact DAQ to arrange records submission. Other attempts to contact a responsible official by phone were made on November 12, 2004, and November 15, 2004, at the shop, on a cell phone, and at a store owned by the company. On November 10, 2004, December 7, 2004, and December 12, 2004, the US Postal Service attempted to deliver certified mail containing a written request for these records. That certified mail was received by DAQ on December 20, 2004, as undeliverable. The written request for records was hand delivered to the shop on December 27, 2004, and a copy of the written request for records was hand delivered to the store in Riverdale on December 27, 2004. As of the date of this advisory, no records have been received to determine compliance with Conditions 7 and 8 of the AO. Failure to provide records is a violation of Condition 12 of the AO.

AO Condition 7 states:

The volatile organic content, (VOC), of the coatings used in the paint booth shall not exceed 7.5% by weight without prior approval in accordance with R307-1-3.1, UAC. The VOC content shall be tested if directed by the Executive Secretary using the appropriate ASTM method or another method approved by the Executive Secretary.

AO Condition 8 states in part:

The plantwide emissions of VOC from the paint booths shall not exceed 15 tons per 12-month period. This value shall not be exceeded without prior approval in accordance with R307-1-3.1, UAC. Compliance with the limitation shall be determined on a rolling 12-month total. Based on the first day of each month a new 12-month total shall be calculated using data from the previous 12 months.

The plantwide emissions of VOC shall be determined by maintaining a record of VOC containing materials used each month.

- E. Records of consumption shall be kept for all periods when the plant is in operation. Records of consumption shall be made available to the Executive Secretary upon request, and shall include a period of two years ending with the date of the request.

AO Condition 12 states:

All records referenced in this AO which are required to be kept by the owner/operator, shall be made available to the Executive Secretary or his representative upon request.

During the November 4, 2004, inspection, the paint booth filters were observed excessively caked with coatings, and many of the filters were missing from the filter bank. On December 27, 2004, the filter bank was observed and photographed in a similar condition. Additionally, on both dates, containers holding VOC containing materials were observed. One such container was also photographed on December 27, 2004. It was evident by the condition of the paint booth and VOC handling on both dates that Pine Factory had failed to use established maintenance practices that maximize pollution control in its furniture coating operations.

AO Condition 13 states:

All installations and facilities authorized by this AO shall be adequately and properly maintained. All pollution control equipment shall be installed, maintained, and operated. Instructions from the vendor or established maintenance practices that maximize pollution control shall be used.



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF AIR QUALITY
Richard W. Sprott
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

*Dropped off original
to shop 2:37 pm 2/11/05
Steve Lamm*
[Signature]

Certified Mail

January 13, 2005

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

Dear Mr. Clark:

RE: COMPLIANCE ADVISORY - Pine Factory - Approval Order (AO) dated September 26, 1995
Conditions 6, 7, 8, 12, and 13 - Compliance Inspection conducted November 4, 2004
Weber County, Utah

This Compliance Advisory documents information obtained by the Division of Air Quality (DAQ) on November 11, 2004, and December 27, 2004. The observations were conducted at the Pine Factory wood furniture manufacturing facilities in Ogden, Utah. The DAQ believes that the "Deficiencies" listed in the table below are violations of AO Conditions 6, 7, 8, 12, and 13 and implementing regulations.

This Compliance Advisory's sole purpose is to document the observations made by the DAQ on November 4, 2004, and December 27, 2004. Your response to the Compliance Advisory and prompt return to compliance will be considered in any enforcement action the DAQ may take as a result of the inspection. Possible actions taken by the DAQ include: mitigation of penalties, offering an early administrative settlement with appropriate penalty assessment, or issuing a Notice of Violation and Order to Comply (NOV).

Please be aware that you are responsible for complying with the Utah Air Conservation Rules and that there are possible administrative and civil penalties for failing to do so. Section 19-2-115 of the Utah Code Annotated provides that violators of the Utah Air Conservation Act and/or any order issued there under may be subject to a civil penalty of up to \$10,000 per day for each violation. This Compliance Advisory does not limit or preclude the DAQ from pursuing its enforcement options concerning this inspection.

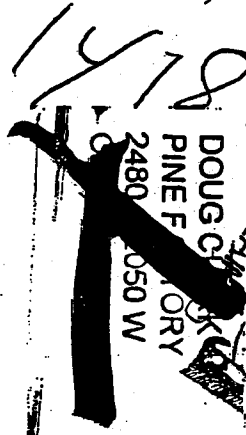
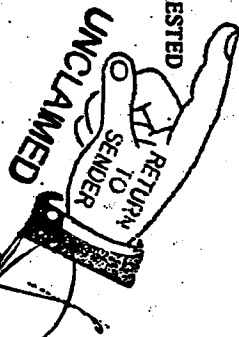
*left copy
Riversdale 2:58 pm 4/11
4377 Riversdale Rd
Steve Lamm
Kara [Signature]*



The State of Utah

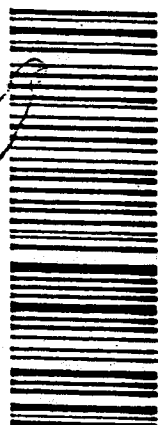
DEPARTMENT OF
ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY
PO BOX 144820
SALT LAKE CITY, UT 84114-4820

RETURN SERVICE REQUESTED

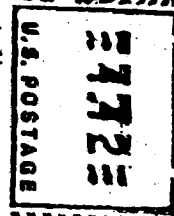


DOUG C
PINE F
2480
050 W

7002 0510 0000 6391 9010



PB METER
7144739



1-18
FIRST NOTICE
1-25
SECOND NOTICE
2-2
THIRD

Exhibit 7

From: "Doug" <doug@pinetactory.com>
To: <rleishman@utah.gov>
Date: 2/15/2005 11:54:30 AM
Subject: Compliance Advisory

Rob,
Attached are the requested documents.

The Pine Factory
2480 So. 2050 West
Ogden, Utah 84401
801.731.7463

In regards to Compliance Advisory:

Dear Board Members,

I wish to formally address the letter which Rob Leishman, a compliance officer has sent to us.

When Rob first made an inspection on November 4, 2004 it could have not been at a worse time for our small company.

In September my father, who was the office manager, was hospitalized for 5 days and diagnosed with Cancer. He started radiation treatment and was given a maximum of 3 to 6 months to live.

Two days after my fathers admittance to the hospital, I was admitted two days later, due to a reaction of a prescription drug that I had been on for almost 8 years and suddenly stopped taking it. I was hospitalized for 10 days.

We are a very, very small shop and family ran. At the time of our hospitalization there were only 2 employees working at the shop. One, just a laborer and the other, my son, who has stepped in to help in the business but has not been formally trained in all the "duties" required of businesses pertaining to all the governmental agencies.

I know that I do not need to say this but I will say it anyway. The purpose of the filters is to keep large particulates from entering into the atmosphere. I know Rob to be a very thorough inspector and compliance officer, so I would assume that before he made his entrance into our shop that he looked at the exhaust duct located outside to observe if any type of emissions was visible. Rob did not notice any such thing otherwise he would have stated it in his report. My son was spraying a piece of furniture at the time Rob entered the spray booth and had been spraying about a half an hour before Rob had arrived.

Now I submit to you that if there is no visible particulates coming from the outside duct work how can missing filters be a deficiency?

As for the VOC report, it has been a very trying time for us as a family these past four months. My son, trying to fill the shoes of the two people that kept the company running for almost 20 years.

With all the duties thrown upon my son of running the business, he failed to realize the gravity of the inspection. My daughter also failed to realize that time was of the essence. Rob had contacted her several times concerning the report. They both felt that everything that was happening in the family was more important and never saw a good opportunity to discuss the matter with me. I have since told them that when it comes to our Government that there is nothing more pressing than to respond when asked.

My father died January 29 and I had to attend to all his personal matters. My mother has been in a rest home now for almost 6 years and has been on Hospice since July of 2004. I was made aware that Rob had been in several times and I was handed the letters on February 11th 2005. I updated the last four months of the report and I replaced all the filters in the filter bank and took pictures thereof.

(The pictures are attached as well as the current VOC report.)

I showed my son and explained to him how to do the reports and access the excel program that I have written, so that if something like this were to happen again Rob would have his report within a matter of minutes. I have also explained to my son that filters need to be always be present and clean at all times with no exceptions.

In defense of my son, the reason why he did not replace the missing filters when Rob had asked him to is because he did not know where they were. The filter material is specially made and can not be purchased from any where other than from a company located outside of Utah.

I beg of you to show mercy on our small operation, we can not afford any type of fine whatsoever. We are struggling as it is, trying to compete with all the big manufacturing facilities taking their operations overseas. If the agency was to impose any type of fine at all it would put our company out of business. We are hanging on a thread as it is.

I know that the agencies purpose is not to run small operations like ourselves out of business and that due to the extenuating circumstances beyond our control, this oversight on our companies part may be overlooked.

I know all of the Utah State Agencies to be of good judgment and will make the right decision concerning the above matter.

Sincerely,
Doug Clark

P.S. If you require any type of cooberation as to the facts stated above, it can be provided as necessary.

VOC REPORT FOR THE PINE FACTORY 2003-2004

Akso Sander Sealer #71432(benzene-Toluene) 42.8%
 #78933 methylethyl ketone 14.3%
 #1330207 xylene 7.06%

Total gal used above 252 gal

Total VOCs

#71432 762.43 lbs.
#78933 254.74 lbs
#1330207 80.16 lbs

Akso Top Coat Laquer #71432 20.3%
 #78933 16.4%
 #1330207 7.1%

Total gal used above 263 gal

Total VOCs

#71432 406.88 lbs
#78933 328.70 lbs
#1330207 142.31 lbs

Akso stain #71432 16.0%

Total gal used above 303 gal

Total VOCs

#71432 338.10 lbs

Total VOC for year 2003-2004

#71432 benzene (toluene)	1507.41 lbs.
#78933 meth.ketone	583.44 lbs.
#1330207 xylene	222.47 lbs.

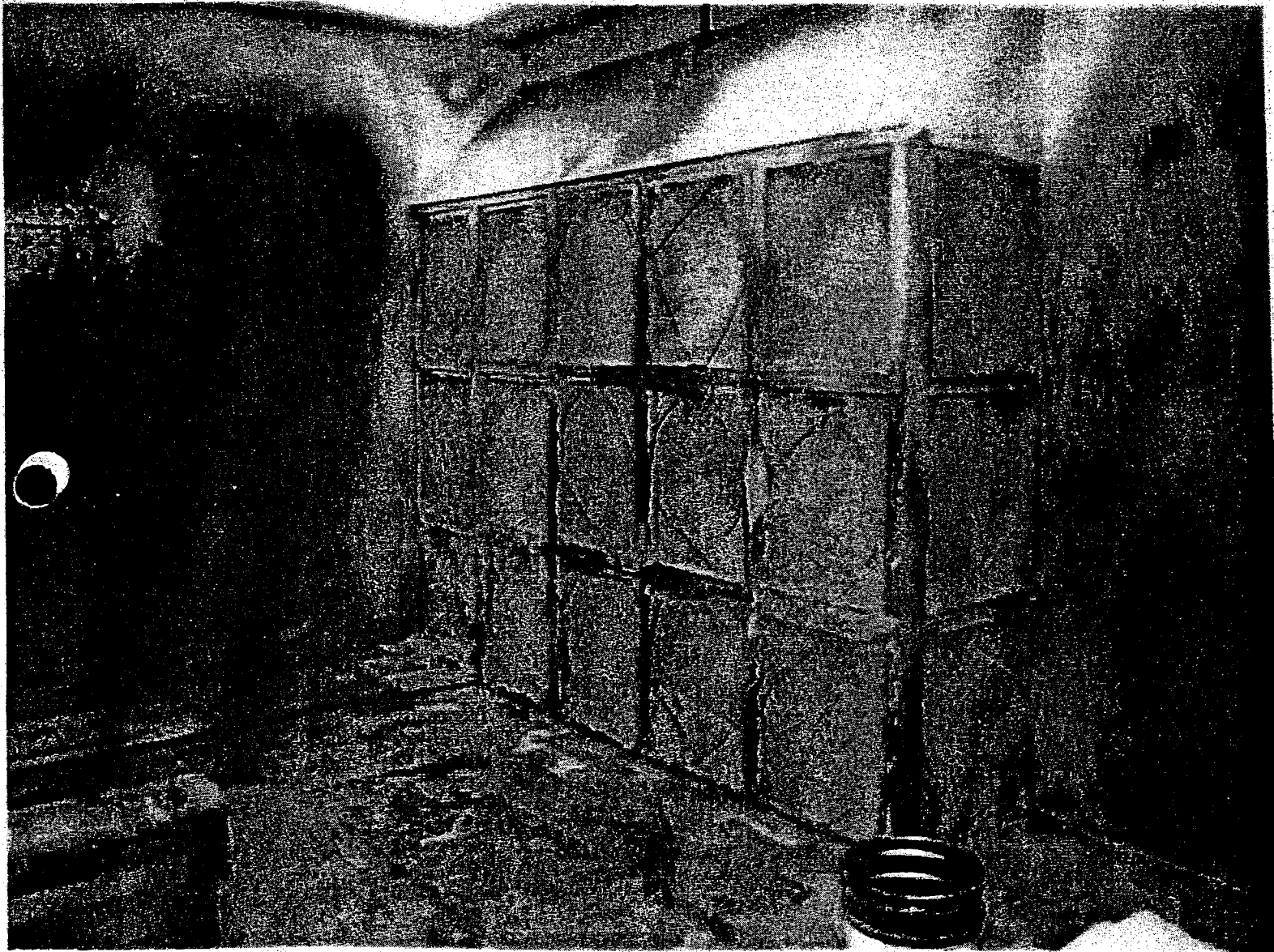


Exhibit 8



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF AIR QUALITY
Richard W. Sprott
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

RL

DAQC-469-2005
Site ID#10953-B-1

CERTIFIED MAIL

March 30, 2005

Doug Clark, Owner
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

Dear Mr. Clark:

RE: Pine Factory - Informal Conference - Compliance Advisory issued January 13, 2005
Weber County

On January 13, 2005, a Compliance Advisory was issued to Pine Factory for violations of Approval Order dated September 26, 1995, Conditions 6, 7, 8, 12, and 13. That document was hand delivered on February 11, 2005, after several attempts to deliver by certified mail had failed. On February 15, 2005, the Division of Air Quality received a response to the Compliance Advisory by E-mail. The response outlined the reasons that the incidents discovered during the November 11, 2004, compliance inspection and follow-up visit on December 27, 2004, had occurred. Among these reasons were operational and managerial difficulties related to family problems, as well as arguments of the necessity of the filters in the paint booth and staffing issues. Also, included in the E-mail were pictures to show that the booth had been fitted with the appropriate filters as required in the AO, and the records to determine compliance with some of the AO conditions were also included.

Under the Division's policies for issuance of Compliance Advisories, we are given the guidance to offer an informal conference to give your company the opportunity to discuss issues related to the Compliance Advisory and means of resolving them. The company is given the opportunity to present previously

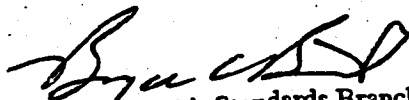
unavailable information and to discuss appropriate ways to discuss the deficiencies and establish mutually agreed compliance schedules. Typically, this informal conference can also include discussion of the administrative process to be used in resolving the Compliance Advisory, as well as pre-enforcement settlement path discussion and formal enforcement.

The Division has made several attempts to contact you by phone to arrange this meeting. Since you or anyone at Pine Factory could not be reached to schedule an informal conference, one has been scheduled for you. Your conference will be scheduled for Friday, April 29, 2005, at 2:00pm at the Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah. Your attendance is not mandatory. However, if you have any information to add to this case, the meeting will provide an excellent opportunity to present this information. In the company's E-mailed response to the Compliance Advisory, you had indicated an inability to pay substantial penalties. Coming prepared with at least the last three years tax records will help expedite the process of determining if the company can afford a penalty that will be proposed in an informal settlement offer at a later date.

Your willingness to comply is greatly appreciated. The Division of Air Quality regrets having to notify you of your meeting in this way, but with no other way to contact you by phone to schedule this meeting, this letter was the only option. If you fail to receive this letter in time to attend the April 29, 2005, meeting, the early settlement offer will be mailed based on the information currently available to the Division of Air Quality.

Should you or your staff have any questions concerning this matter, contact Rob Leishman at (801) 536-4438.

Sincerely,



Bryce Bird, Air Standards Branch Manager
Division of Air Quality

BCB:RL:aj

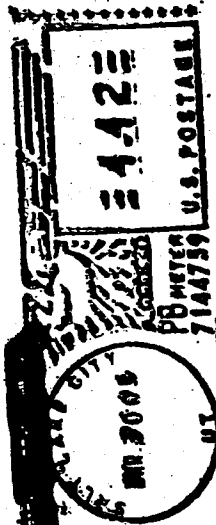
cc: Weber-Morgan District Health Department



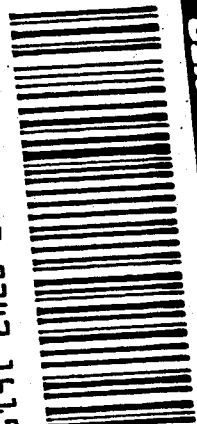
The State of Utah

RETURN SERVICE REQUESTED

DEPARTMENT OF
ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY
PO BOX 144820
SALT LAKE CITY, UT 84114-4820



Handwritten signature



CERTIFIED MAIL

7003 2260 0002 0247 1615

RECEIVED

MAY 06 2005

~~DOUG CLARK
PINE HATCHERY
2480 S 2050 W
OGDEN UT 84401~~

4-4	FIRST NOTICE
4-12	SECOND NOTICE
4-19	THIRD NOTICE

Exhibit 9

RL



JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

VISION OF AIR QUALITY
Richard W. Sprott
Director

DAQC-794-2005
Site ID# 10953-B1

May 13, 2005

SENT VIA CERTIFIED MAIL NO. 7003 2260 0002 0247 5347
Return Receipt Requested

Doug Clark, Owner
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

Dear Mr. Clark:

Re: Proposed Settlement Agreement in the matter of Pine Factory, Weber County, Utah

Pine Factory operates a Log furniture manufacturing facility located at 2480 South 2050 West, Ogden, Utah.

On November 11, 2004, and during a follow-up visit on December 27, 2004, an inspector of the Division of Air Quality observed violations of Approval Order dated September 26, 1995, Conditions 6, 7, 8, 12, and 13. The inspector made several attempts after the inspections to inform Pine Factory of the violations, but contact could not be made by phone or written records requests.

On January 13, 2005, the Division issued a Compliance Advisory to Pine Factory. Again, after several attempts to deliver the Compliance Advisory by certified mail, the Compliance Advisory was hand delivered to the shop and to the factory store in Riverdale on February 11, 2005. Pine Factory responded to the Compliance Advisory in a phone call on February 14, 2005, and in the E-mail sent February 16, 2005. After the facts of this case were gathered based on Pine Factory's responses in February 2005, attempts were made to schedule a meeting, during which the above-related compliance issue were to be discussed. Several attempts were made to contact the numbers listed in the compliance advisory response, and a written invitation was sent via certified mail to attend the informal settlement conference scheduled for April 29, 2005. Pine Factory did not attend this meeting, and did not accept or

respond to the certified mail notice. Based on the information submitted to date by Pine Factory and the information gathered by the compliance inspector, the Division determined that Pine Factory was in violation of: Approval Order dated September 25, 1995, Conditions 6,7,8,12, and 13.

Section 19-2-115 of the Utah Code Annotated provides that violators of the Utah Air Conservation Act and/or any order issued thereunder may be subject to a civil penalty of up to \$10,000 per day for each violation. Based upon our civil penalty policy, we calculated a preliminary civil penalty for the above listed violations of \$10,403.00. The monetary amount of the Division's settlement offer specified below is derived from a pre-established schedule of penalties, which takes into account, among other factors, the magnitude and severity of the violation, cooperation of the source, as well as the prior history of violations at the facility. All parties we deal with, whether private, commercial, or governmental, are treated similarly in the settlement process. Settlement offers are based on the evaluation of the same factors and criteria in all cases. The Division acknowledges that the violations on November 4, 2004, and December 27, 2004, occurred as a result of several aggravating factors, including illness and losses in the family and lapses in management of the facility during that time. The Division also acknowledges the fact that many of the items listed in the compliance advisory were corrected as stated in the E-mailed response to the Compliance Advisory in early 2005.

If you are interested in settling this violation, we are authorized to offer settlement in accordance with the Division's settlement policy as follows:

1. Payment of a reduced civil penalty in the sum of \$8,322.40. Payment of a civil penalty precludes further civil prosecution for the above-described violation against the named source. The Division retains its authority to take enforcement actions based on any and all violations not specifically described above.
2. Payment of all current and back fees owed by Pine Factory. There are currently no known back fees owed by Pine Factory.
3. In the event any further violations of air quality regulations occur, the Division may consider the violation described above in assessing a penalty for the subsequent violations, in accordance with the provisions of UAC R307-130.
4. Entering into this settlement shall not constitute an admission of violation of the air quality rules, nor shall it be inferred to be such an admission in any administrative or judicial proceeding. The described violation will constitute part of the source's compliance history for any purpose for which such history is relevant to the Division of Air Quality.

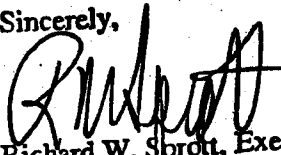
This letter constitutes an offer of settlement and is not a demand for payment. We will be glad to consider any information you wish to submit related to the alleged violation. The agreement reflects a reduced penalty for early settlement of this matter.

If the above terms are acceptable to you, sign and return a copy of this letter and a check in the sum of \$8,322.40, which reflects the reduced penalties, made payable to the Utah Division of Air Quality, at the letterhead address.

You may write or call to request a settlement conference with a member of the Division's compliance staff listed below. A conference must be scheduled within twenty (20) days of your receipt of this settlement proposal letter. If you request such a meeting this settlement offer, including any associated penalty reductions, is immediately revoked.

If we do not hear from you within twenty (20) days of your receipt of this settlement proposal letter, we will assume that you are not interested in resolving this matter as outlined above and will refer the violation to a formal enforcement process. Please call Rob Leishman at (801) 536-4438 if you have any further questions regarding this matter.

Sincerely,



Richard W. Sprott, Executive Secretary
Utah Air Quality Board

RWS:RL:aj

cc: Weber-Morgan Health Department

Acceptance of Settlement Offer

I have read the above settlement and agree to the terms and conditions of this offer.

Name:

Title:

Signature Date ()
Telephone Number

Enclosures: Penalty Calculation and Criteria

No.: 10953

HPV: No

Class B

Violation Date: 11/4/2004, 12/27/2004

Home

Table 1: Gravity Criteria

Table 1: Gravity Charge										
Citation	Description of the violation Description of Events Resulting in Excess Emissions	Gr. 1	Gr. 2	Gr. 3	Gr. 4	Gr. 5	Daily Gravity	Accumulated Gravity		
R307-401 and AO Condition 6	Operation of paint booth without filters in place on November 4, 2004 and December 27, 2004.	2	C	1	1	3	3	0	\$1,289.00	\$2,578.00
R307-401 and AO Condition 7	Failure to demonstrate compliance with the 7.5% VOC content by weight requirement of the AO.	1	C	0	1	3	1	0	\$869.00	\$869.00
R307-401 and AO Condition 8	Failure to provide records to determine compliance with the limits of this condition upon request.	1	C	0	1	3	1	0	\$869.00	\$869.00
R307-401 and AO Condition 12	Failure to provide necessary records upon request.	1	C	0	2	3	1	0	\$1,009.00	\$1,009.00
R307-401 and AO Condition 13	Failure to use reasonable controls for VOC containing materials on November 4, 2004 and December 27, 2004.	2	C	1	1	3	3	0	\$1,289.00	\$2,578.00
Gc 5 History of violations within the last five (5) years? Enter "d" in Category →			d							
Violations of the same rule within the last five (5) years? Enter "d" in Category →			d					\$2,500.00	\$2,500.00	
Total Gravity								\$7,325.00	\$10,403.00	

Table 2: Adjustments

Other	EPA "BEN" Model (Collected)	
	Other Monies Collected	
	SEP - (Credited)	
	Early Settlement Reduction (20%) -	\$2,080.60
Total Penalty		\$8,322.40

Gravity Criteria Definitions

Gr 1. Was the violation a result of excess emissions and/or reporting?

- | | |
|-------------------------|---|
| (0) Answer "no" | If the violation was not the result emissions, reporting, or other |
| (1) Answer "possibly" | If a minor reporting or other problem occurred, but no emissions were involved |
| (2) Answer "probably" | If a reporting or other problem occurred which involved emissions |
| (3) Answer "definitely" | If a permit reporting or other significant problem occurred involving emissions |

Gc 2. Was it a willful or knowing violation?

- | Gr 2. WBE If E With or Without | |
|--------------------------------|---|
| (0) Answer "no" | If the violator obviously did not know that the action or inaction constituted a violation? |
| (1) Answer "possibly" | If the violator should have know |
| (2) Answer "probably" | If the violator likely knew |
| (3) Answer "definitely" | If the violator clearly knew |

Gr 3. Was the violator unresponsive in correcting the violation?

- | | |
|-------------------------|---|
| (0) Answer "no" | If the violation was corrected as soon as the violator learned of it 1dy. |
| (1) Answer "possibly" | If the violation was corrected in a less timely and cooperative fashion 2-7 days. |
| (2) Answer "probably" | If the violator attempted to correct the problem, but did not correct it 8-30 days. |
| (3) Answer "definitely" | If the violator did not attempt to correct the problem > 30 days. |

Gc 4. Was the violation a result of improper operation or inadequate maintenance?

- | | |
|-------------------------|---|
| (0) Answer "no" | If the violator was following an acceptable O & M plan |
| (1) Answer "possibly" | If the violator was following an O & M plan that was not adequate |
| (2) Answer "probably" | If the violator did not have an O & M plan |
| (3) Answer "definitely" | If the violator did not have an O & M plan and the violation was clearly a result of improper O & M |

Qc 6. Did the violator benefit economically from noncompliance?

- Qc 6. Did the violator benefit economically from the noncompliance?
- | | |
|-------------------------|---|
| (0) Answer "no" | If the violator clearly did not obtain any economic benefit (less than \$5,000) |
| (1) Answer "possibly" | If the violator may have benefited |
| (2) Answer "probably" | If the violator benefited, but the benefit is not quantifiable |
| (3) Answer "definitely" | If the economic benefit to the violator is quantifiable (use BEN Program) |

RS07-130. General Penalty Policy

RS07-130-1 Scope.

This policy provides guidance to the executive secretary of the Air Quality Board in negotiating with air pollution sources penalties for consent agreements to resolve non-compliance situations. It is designed to be used to determine a reasonable and appropriate penalty for the violations based on the nature and extent of the violations, consideration of the economic benefit to the sources of non-compliance, and adjustments for specific circumstances.

RS07-130-2. Categories.

Violations are grouped in four general categories based on the potential for harm and the nature and extent of the violations. Penalty ranges for each category are listed.

Category A - \$7,000 to \$10,000 per day

Violations with high potential for impact on public health and the environment including:

- (a) Violations of emission standards and limitations of NESHAP
- (b) Emissions contributing to non-attainment area or PSD increment exceedances.
- (c) Emissions resulting in documented public health effects and/or environmental damage.

Category B \$2,000 to \$7,000 per day

Violations of the Utah Air Conservation Act, applicable state and federal regulations, and orders to include:

- (a) Significant levels of emissions resulting from violations of emission limitations or other regulations which are not Category A
- (b) Substantial non-compliance with monitoring requirements.
- (c) Significant violations of approval orders, compliance orders, and consent agreements not within Category A
- (b) Significant and/or knowing violations of "notice of intent" and other notification requirements.
- (e) Violations of Reporting requirements

Category C Up to \$2,000 per day

Minor violations of the Utah Air Conservation Act, applicable state and federal regulations, and orders having no significant public health or environmental impact to include:

- (a) Reporting violations
- (b) Minor violations of monitoring requirements, orders and agreements.
- (c) Minor violations of emission limitations or other regulatory requirements

Category D Up to \$299.00

Violations of specific provisions of which are considered minor to include:

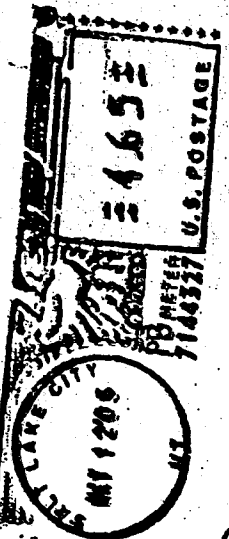
- (a) Violations of automobile emission standards and requirements.
- (b) Violation of wood-burning regulations by private individuals
- (c) Open burning violations by private individuals.



DEPARTMENT OF
ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY
PO BOX 144820
SALT LAKE CITY, UT 84114-4820

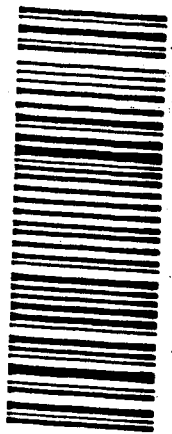
RETURN SERVICE REQUESTED

RECEIVED
JUN 06 2005
AIR QUALITY



US-13-05

CERTIFIED MAIL

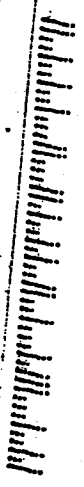


7003 2260 0002 0247 5347

UNCLAIMED

DOUG CLARK
PINE FACTORY
2480 S 2050 W
CODEN 01 0000

FIRST NOTICE	
5/20	5/20
SECOND NOTICE	
5/20	
THIRD	





State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF AIR QUALITY
Richard W. Sprott
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Kate Yampp
6/8/2005

*Original Delivered to
Shop - 2480 S. 2050
Kara Lamm*

*Copy delivered to:
10 2nd copy delivered*

DAQC-794-2005
Site ID# 10953-B1

May 13, 2005

SENT VIA CERTIFIED MAIL NO. 7003 2260 0002 0247 5347
Return Receipt Requested

Doug Clark, Owner
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

Dear Mr. Clark:

Re: Proposed Settlement Agreement in the matter of Pine Factory, Weber County, Utah

Pine Factory operates a Log furniture manufacturing facility located at 2480 South 2050 West, Ogden, Utah.

On November 11, 2004, and during a follow-up visit on December 27, 2004, an inspector of the Division of Air Quality observed violations of Approval Order dated September 26, 1995, Conditions 6, 7, 8, 12, and 13. The inspector made several attempts after the inspections to inform Pine Factory of the violations, but contact could not be made by phone or written records requests.

On January 13, 2005, the Division issued a Compliance Advisory to Pine Factory. Again, after several attempts to deliver the Compliance Advisory by certified mail, the Compliance Advisory was hand delivered to the shop and to the factory store in Riverdale on February 11, 2005. Pine Factory responded to the Compliance Advisory in a phone call on February 14, 2005, and in the E-mail sent February 16, 2005. After the facts of this case were gathered based on Pine Factory's responses in February 2005, attempts were made to schedule a meeting, during which the above-related compliance issue were to be discussed. Several attempts were made to contact the numbers listed in the compliance advisory response, and a written invitation was sent via certified mail to attend the informal settlement conference scheduled for April 29, 2005. Pine Factory did not attend this meeting, and did not accept or

Exhibit 10

~~Darren R. [unclear]~~

~~Ch. 3~~

2:30 pm 7/6/05

Citations not accurate or valid. Company was in compliance. Pine factory shouldn't even be regulated. No money to pay, not going to pay. Small infractions do not warrant disciplinary actions taken by DAQ. Cannot pay this penalty and will put Pine factory out of business.

Family illness, death, Hospital issues & family business added to inability to respond.

710-7986 call for Doug

I called 7/11/05 at 12:35 pm. left Doug a message to let him know that DAQ would be putting together a packet to send to the Attorney General's office as discussed last time.
7/11/2005

Exhibit 11

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

RAYMOND A. HINTZE
Chief Deputy

Protecting Utah • Protecting You

KIRK TORGENSEN
Chief Deputy

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

CERTIFIED MAIL

August 15, 2005

Re: Department of Environmental Quality, Division of Air Quality, Approval Order

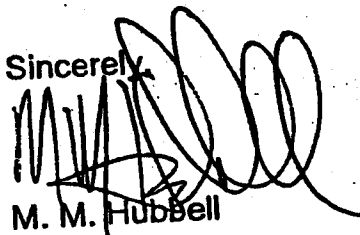
Dear Mr. Clark:

I am contacting you on behalf of the Division of Air Quality. It would appear that the Pine Factory is not in compliance with its Approval Order. According to Rob Leishman of the Division of Air Quality, it is your belief that the Approval Order does not apply to the Pine Factory.

I would like to set up a meeting with you and Mr. Leishman to discuss how to resolve the issues surrounding the Pine Factory and the Approval Order. Please call me within ten days of receipt of this letter at (801) 366-0290 to set up an appointment to discuss this matter.

If I do not hear from you within the ten day period, the State will be forced to proceed legally in this matter. If you do not set up an appointment, the Division of Air Quality will be required to issue a Notice of Violation and Order for the Pine Factory's failure to comply with its Approval Order. This will make resolution of this dispute a formal matter.

Sincerely,



M. M. Hubbell

CC: Rob Leishman
Fred Nelson

62-114708-3

NIXIE **841** **1** **01 09/01/05**



02 1A \$04.420
0004364742 AUG15 2005
MAILED FROM ZIP CODE 84116

UNITED STATES POSTAGE

THIRTY DOWES

DOUG CLARK
PINE FACTORY
22480 SOUTHWEST 205TH
OGDEN, UT 84401

ET2E 06E9 2200 0090 0002

CERTIFIED MAIL

State of Utah

Office of
THE ATTORNEY GENERAL

P.O. BOX 140873
SALT LAKE CITY, UTAH 84114-0873

RETURN SERVICE REQUEST

RETURN TO
TO
SENDER

UNCLAIMED

ADMINISTRATION
SEP - 2 2005

DOUG CLARK

PINE FACTORY

2480 SOUTH 2050 WEST

OGDEN LOT 84401

**U.S. Postal Service
CERTIFIED MAIL RECEIPT**
(Domestic Mail Only; No Insurance Coverage)

Article Sent To:

Doug Clark, Pine Factory

Postage

Certified Fog

**Return Receipt Fee
(endorsement Required)**

(Fingerprint Submission Required)

Total Postage & Fees

49

Name (Please Print Clearly) (to be completed by mailer)
Doug Clark P.O. Box 1000

Doug. Clark, Pine Factory,
Swell's Pat. No. 1 or 2, 1884, No. 1
22480

2480 S. 2050 W.

City State ZIP+4
Ogden, UT 84401

Exhibit 12



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF AIR QUALITY
Richard W. Sprott
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Sent SM J. Nielson
Title Process Server
Date 11-2-05 Time 10:30 A
P/S [Signature]
Same

DAQC-1471-2005
ID# 10953-B1

October 21, 2005

Doug Clark
Pine Factory
24037 Riverdale Rd
Riverdale UT 84405

Dear Mr. Clark:

Re: Pine Factory - Notice of Violation and Order for Compliance - Utah Administrative Code (UAC) Section R307-401 and Approval Order dated September 26, 1995, Conditions 6, 7, 8, 12, and 13 - Weber County

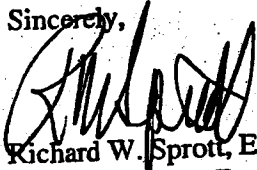
On November 4, 2004, and on December 27, 2004, a representative of the Executive Secretary of the Utah Air Quality Board conducted site inspections of the Pine Factory wood furniture manufacturing facilities located at 2480 South 2050 West, Ogden, Weber County, Utah. During both inspections it was determined that Pine Factory was in violation of the C & C Manufacturing (a.k.a. Pine Factory) Approval Order ("AO") dated September 26, 1995. The Pine Factory was in violation of Condition 6 for failure to install paint particulate filters in the paint booth. The facility also failed to demonstrate compliance with the Volatile Organic Compound ("VOC") material content and emission limits by providing adequate records in a timely manner as required in Conditions 7 and 8 of the AO. The inspection documents further note that Pine Factory failed to provide records as required by Condition 12 of the AO and failed to adequately and properly maintain its facility and employ good general maintenance practices to minimize VOC emissions in accordance with Condition 13 of the AO.

The enclosed Notice of Violation and Order to Comply is based on the findings documented by the inspector. The Order is effective immediately. Compliance with the Order is mandatory and will not relieve the company of liability for any past violations. Please give this order your immediate attention. A written response is required within 30 days after receipt of this NOTICE. This order is fully enforceable unless appealed in writing within 30 days, to request a formal administrative hearing; you must follow the procedures detailed in the paragraph entitled "Compliance, Opportunity for a Hearing." Any response or written answer to this NOV/OC should be addressed to Richard Sprott, Executive Secretary, Utah Air Quality Board, 150 North 1950 West, and P.O. BOX 144820, Salt Lake City, Utah 84114-4820.

This Order requires that Pine Factory submit notification of its intent to comply, outlining how and when compliance will be achieved, to the Division of Air Quality, in writing on or before the 15th day after receipt of this Order. A meeting will then be arranged to discuss the violations, findings, and resolution. Questions regarding this matter may be directed to M. M. Hubbell of the Utah Attorney General's Office (801) 366-0290. A phone call will not waive the requirement of a written request for a hearing or a written notification.

When responding, refer to the date on this letter.

Sincerely,



Richard W. Sprott, Executive Secretary
Utah Air Quality Board

RWS: RL: jv

Enclosure: Notice of Violation and Order for Compliance

cc: Dianne R. Nielson, Executive Director, Department of Environmental Quality
M. M. Hubbell, Utah Attorney General's Office
Weber-Morgan Health Department

The Utah Air Quality Board

ooOoo

In the Matter of	:	Notice of Violation
Pine Factory a.k.a	:	and Order to Comply
C & C Manufacturing	:	
	:	No. 2005100508

ooOoo

This Notice of Violation and Order of Compliance ("NOV/OC") is issued by the Utah Air Quality Board ("Board") pursuant to the Utah Air Conservation Act ("Act"), Utah Code Ann. ("UCA") as amended, §§ 19-2-101 through 19-2-840. This NOV/OC is also issued in accordance with the Utah Administrative Procedures Act, UCA §§ 63-46b-0.5 through 63-46b-23. The Executive Secretary is authorized to issue Notices of Violation pursuant to UCA § 19-2-110. The Board has delegated to the Executive Secretary authority to issue Orders in accordance with UCA § 19-2-107(2)(g).

Findings of Fact:

1. Pine Factory a.k.a C & C Manufacturing ("Pine Factory") operates a wood furniture manufacturing facility at 2480 South 2050 West, Ogden, Weber County, Utah.
2. Pine Factory is required to comply with the Utah Administrative Code ("UAC") R307-101 through R307-840 and the conditions of the C & C Manufacturing Approval Order (AO) DAQE-880-95, issued to the C & C Manufacturing, and dated September 26, 1995.

Condition 6 of the AO states in part:

"The paint spray booth shall be equipped with paint arrestor particulate filters, (or equivalent), to control particulate emissions. All air exiting the booth shall pass through this control system before being vented to the atmosphere."

Condition 7 of the AO states:

"The volatile organic content, (VOC), of the coatings used in the paint booth shall not exceed 7.5% by weight without prior approval in accordance with R307-1-3.1, UAC (renumbered September 15, 1998, to R307-401). The VOC content shall be tested if directed by the Executive Secretary using the appropriate ASTM method or another method approved by the Executive Secretary."

Condition 8 of the AO states in part:

"The plantwide emissions of VOC from the paint booths shall not exceed 15 tons per 12-month period. This value shall not be exceeded without prior approval in accordance with R307-1-3.1, UAC (renumbered September 15, 1998, to R307-401). Compliance with the limitation shall be determined on a rolling 12-month total. Based on the first day of each month a new 12-month total shall be calculated using data from the previous 12 months.

The plantwide emissions of VOC shall be determined by maintaining a record of VOC containing materials used each month . . .

- E. Records of consumption shall be kept for all periods when the plant is in operation. Records of consumption shall be made available to the Executive Secretary upon request, and shall include a period of two years ending with the date of the request."

Condition 12 of the AO states:

"All records referenced in this AO which are required to be kept by the owner/operator, shall be made available to the Executive Secretary or his representative upon request."

Condition 13 of the AO states:

"All installations and facilities authorized by this AO shall be adequately and properly maintained. All pollution control equipment shall be installed, maintained, and operated. Instructions from the vendor or established maintenance practices that maximize pollution control shall be used."

On November 4, 2004, a Division of Air Quality ("DAQ") inspector and representative of the Executive Secretary conducted an examination of the Pine Factory manufacturing facilities located at 2480 South 2050 West in Ogden, Utah. On December 27, 2004, the DAQ inspector conducted a follow up

examination of the Pine Factory manufacturing facilities. During the inspections, the following deficiencies were noted:

- A. On November 4, 2004, the paint booth at the Pine Factory was in operation although several filter panels were not in place. The filters that were in place were excessively caked with paint overspray. Failure to vent all air exiting the paint booth through filters is a violation of Condition 6 of the AO.

During the November 4, 2004 inspection the inspector had informed company personnel that the paint caked filters would need to be replaced and that the missing filters would also need to be replaced. During the December 27, 2004 follow-up visit to the facility, the filters were still missing and the in place filters that were still covered with excessive overspray in violation of Condition 6 of the AO.

- B. During the November 4, 2004 inspection, the inspector requested records to determine Pine Factory's compliance with Conditions 7 and 8 of the AO. On November 9, 2004, a telephone message was left at the Pine Factory asking that a Pine Factory representative contact DAQ and arrange to submit the records. Other attempts to contact a responsible official by phone were made on November 12, 2004, and November 15, 2004, at the shop, on a cell phone, and at a store owned by the company. On November 10, 2004, December 7, 2004, and December 12, 2004, the US Postal Service attempted to deliver certified mail containing a written request for these records. A Pine Factory representative refused to accept the certified mail. On December 20, 2004, the certified mail was returned to DAQ marked as undeliverable. On December 27, 2004, the written request for records was hand delivered to the Pine Factory shop and a copy of the written request for records was hand delivered to the Pine Factory store in Riverdale, Utah. As of the date of this NOV/OC, no records have been provided to the DAQ by the Pine Factory. Therefore: the DAQ cannot determine if the Pine Factory is in compliance with Conditions 7 and 8 of the AO. Failure to provide records is a violation of Condition 12 of the AO.

- C. During the November 4, 2004, inspection, the paint booth filters were observed to be excessively caked with coatings, and many of the filters were missing from the filter bank. On December 27, 2004, the filter bank was observed and photographed in a similar condition. Additionally, on both dates, containers holding VOC containing materials were observed. One such container was also photographed on December 27, 2004. It was evident by the condition of the paint booth and VOC handling observed on both dates that Pine Factory had failed to use established maintenance practices that maximize pollution control in its furniture coating operations.

Violation(s):

Based on the foregoing Findings of Fact, Pine Factory is in violation of:

1. Condition 6 of the AO for failure to vent all air exiting the paint booth through paint arrestor particulate filters.
2. Condition 7 of the AO for failure to demonstrate compliance with the VOC content requirements of the AO.
3. Condition 8 of the AO for failure to demonstrate compliance with the plant wide VOC emission limits listed in the AO.
4. Condition 12 of the AO for failure to make records available to the Executive Secretary that are required to be maintained in accordance with the AO.
5. Condition 13 of the AO for failure to adequately and properly maintain the facility in a manner that maximizes pollution control in a manner consistent with established maintenance practices.

Order:

Based on the foregoing Findings of Fact and Violations and pursuant to UCA §19-2-107(2)(g), the Pine Factory, is hereby ordered to:

1. Immediately initiate all actions necessary to achieve total compliance with all applicable provisions of the Act.
2. Notify this office in writing on or before the 15th day after receipt of this letter, of the Pine Factory's intent to comply with this Order and indicate how compliance is to be achieved.


Compliance, Opportunity for a Hearing:

This Notice of Violation and Order of Compliance is effective immediately and shall become final unless Pine Factory requests a hearing in writing within thirty (30) days after receipt of this Notice in

accordance with UCA §19-2-110. Any further administrative proceedings in this case shall be conducted formally under UCA § 63-46b-6 through 23, inclusive. To contest this Notice and Order, you must respond in writing and request a hearing from the Board. The response and request for a hearing must be received by the Executive Secretary (at the address given below) within 30 days of issuance of the Notice and Order. See Utah Code Annotated § 63-46b-3(2)(a)(vi) and § 63-46b-12. You will not be allowed to contest this Notice of Violation and Compliance Order in court if you do not first participate in the hearing process just described. See Utah Code Annotated § 63-46b-14(2).

UCA § 19-2-115 provides that violators of the Utah Air Conservation Act and/or any Order issued thereunder may be subject to a civil penalty of up to \$10,000.00 per day for each violation.

Dated 24 day of October, 2005.


Richard W. Sproat, Executive Secretary
Utah Air Quality Board
150 North 1950 West
P.O. Box 144820
Salt Lake City, Utah 84114-4820.

INVOICE

Inv. # 2005003241
11-02-2005

ANDERSON PROCESS SERVICES, L.C.
230 West 200 South
Suite 2302
Salt Lake City, UT 84101
Phone: (801) 619-1110
Fax: (801) 575-2104

M. M. Hubbell
STATE OF UTAH, ATTORNEY GENERALS OFFICE
160 East 300 South
Suite 500
Salt Lake City UT 84114-0873

Case Number: WEBER

Plaintiff:
STATE OF UTAH; DEPARTMENT OF ENVIRONMENTAL
QUALITY

Defendant:
PINE FACTORY

Received: 10/25/2005 Completed: 11/2/2005
To be served on: PINE FACTORY

ITEMIZED LISTING

Line Item	Quantity	Price	Amount
	1.00	12.00	12.00
Service Fee (Local)	86.00	1.00	86.00
MILEAGE			\$98.00
TOTAL CHARGED:			\$98.00

BALANCE DUE:

Comments pertaining to this Invoice:
11/2/2005 7:47 pm NEW ADDRESS: 4037 RIVERDALE RD, RIVERDALE, UTAH 84405

Please enclose a copy of this invoice with your payment.

AFFIDAVIT OF SERVICE

Second District Court

State of UTAH

County of WEBER

Case Number: _____

Plaintiff:
STATE OF UTAH; DEPARTMENT OF ENVIRONMENTAL QUALITY
vs.

Defendant:
PINE FACTORY

For:
M. M. Hubbell
STATE OF UTAH, ATTORNEY GENERALS OFFICE
160 East 300 South
Suite 500
Salt Lake City, UT 84114-0873

Received by ANDERSON PROCESS SERVICES, L.C. on the 25th day of October, 2005 at 7:55 pm to be served on PINE FACTORY, R/A, DOUG CLARK, 4037 RIVERDALE RD, RIVERDALE, UTAH 84405.

I, Heidi A. Anderson, being duly sworn, depose and say that on the 2nd day of November, 2005 at 10:30 am, I:

Served the within named CORPORATION by delivering a true copy of the NOTICE OF VIOLATION & ORDER FOR COMPLIANCE with the date and hour of service endorsed thereon by me to DOUG CLARK as Registered Agent of the within named corporation, in compliance with state statutes.

Military Status: Based upon inquiry of party served, defendant is not in the military service of the United States.

Additional Information pertaining to this Service:

11/1/2005 11:17 pm Attempted Service: 10-27, 7:45 P NOT OPEN; 10-28, 11:15 A CLOSED 3 CARS IN THE FRONT BUT NOBODY IN THE BUISNESS; 10-31, 10:30 A NOT AT THE RIVERDALE STORE; 10-31, 10:45 A NOT IN. WAITED UNTIL 11:30. TALKED TO KARMA AND SHE SAID THAT I COULD NOT SERVE THE MANAGER. I WAS TOLD BY THE MANAGER THAT DOUG WAS ON HIS WAY. KARMA LATER CALLED AND SAID THAT IT WAS FINE TO SERVE THE MANAGER; 11-1, 9:00 A NOT OPEN; 11-1, 10:15 A NOT OPEN

I am over the age of 18 and have no interest in the above action.



Subscribed and Sworn to before me on the 2nd day of November, 2005 by the affiant who is personally known to me.

Sheila Anderson
NOTARY PUBLIC

Heidi Anderson

Heidi A. Anderson
Process Server

ANDERSON PROCESS SERVICES, L.C.
230 West 200 South
Suite 2302
Salt Lake City, UT 84101
(801) 619-1110
Our Job Serial Number: 2005003241

Service Fee: \$98.00

Exhibit 13

801-731-4835

The Pine Factory

Fax

To: Richard W Sprott	From: Doug Clark -Pine Factory
Fax: 801-536-4099-801-366-0292	Pages: 4 including cover
Phone: 801-536-4000	Date: 12/2/2005
Re: Notice of Violation	CC: M. M. Hubbell

☒ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:** As I stated on the telephone, I have sent hard copies of the forgoing instruments to the Dept. of Air Quality attention to Richard Sprott. I was told by his office that faxing in this request and following it up with the hard copies via first class mail would be sufficient.

If you have any questions you may contact me at 801-710-7886 or 801-394-4005

Doug Clark

*office fax
801 394-4075*

1

The Pine Factory
2480 So. 2050 West
Ogden, Utah 84401
801.710.7986

12/2/2005 1:48:10 PM

Re: Notice of Violation and Order for Compliance
DAQC-1471-2005
ID# 10953-B1

Dear Richard Sprott,

I wish to formally request a hearing in the above stated matter and for the board to consider the following.

Rob Lieshman first made an inspection on November 4, 2004 it could have not been at a worse time for our small company.

In September my father, who was the office manager, was hospitalized for 5 days and diagnosed with Cancer. He started radiation treatment and was given a maximum of 3 to 6 months to live.

Two days after my fathers admittance to the hospital, I was admitted two days later, due to a reaction of a prescription drug that I had been on for almost 8 years and suddenly stopped taking it. I was hospitalized for 10 days.

We are a very, very small shop and family ran. At the time of our hospitalization there were only 2 employees working at the shop. One, just a laborer and the other, my son, who has stepped in to help in the business but has not been formally trained in all the "duties" required of businesses pertaining to all the governmental agencies.

I know that I do not need to say this but I will say it anyway. The purpose of the filters is to keep large particulates from entering into the atmosphere. I know Rob to be a very thorough inspector and compliance officer, so I would assume that before he made his entrance into our shop that he looked at the exhaust duct located outside to observe if any type of emissions was visible. Rob did not notice any such thing otherwise he would have stated it in his report. My son was spraying a piece of furniture at the time Rob entered the spray booth and had been spraying about a half an hour before Rob had arrived.

Now I submit to you that if there is no visible particulates coming from the outside duct work how can missing Pre-filters be a deficiency?

As for the VOC report, it has been a very trying time for us as a family these past four months. My son, trying to fill the shoes of the two people that kept the company running for almost 20 years.

With all the duties thrown upon my son of running the business, he failed to realize the gravity of the inspection. My daughter also failed to realize that time was of the essence. Rob had contacted her several times concerning the report. They both felt that everything that was happening in the family was more important and never saw a good opportunity to discuss the matter with me. I have since told them that when it comes to our Government that there is nothing more pressing than to respond when asked.

My father died January 29 and I had to attend to all his personal matters. My mother has been in a rest home now for almost 6 years and has been on Hospice since July of 2004. I was made aware that Rob had been in several times and I was handed the letters on February 11th 2005. I updated the last four months of the report and I replaced all the filters in the filter bank, both pre-filters and post filters.

Rob received the VOC report and notification that the pre-filters that was missing had been replaced on Feb. 15, 2005.

I showed my son and explained to him how to do the reports and access the excel program that I have written, so that if something like this were to happen again Rob would have his report within a matter of minutes. I have also explained to my son that filters need to be always be present and clean at all times with no exceptions.

In defense of my son, the reason why he did not replace the missing filters when Rob had asked him to is because he did not know where they were. The filter material is specially made and can not be purchased from any where other than from a company located outside of Utah.

I beg of you to show mercy on our small operation, we can not afford any type of fine whatsoever. We are struggling as it is, trying to compete with all the big manufacturing facilities taking their operations overseas. If the

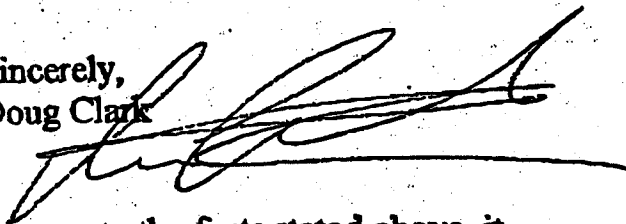
3

agency was to impose any type of fine at all it would put our company out of business. We are hanging on a thread as it is.

I know that the agencies purpose is not to run small operations like ourselves out of business and that due to the extenuating circumstances beyond our control, this oversight on our companies part may be overlooked.

I know all of the Utah State Agencies to be of good judgment and will make the right decision concerning the above matter.

Sincerely,
Doug Clark

A handwritten signature in black ink, appearing to read 'Doug Clark', with a long horizontal flourish extending to the right.

P.S. If you require any type of cooberation as to the facts stated above, it can be provided as necessary.

Exhibit 14

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

RAYMOND A. HINTZE
Chief Deputy

Protecting Utah • Protecting You

KIRK TORGENSEN
Chief Deputy

December 27, 2005

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

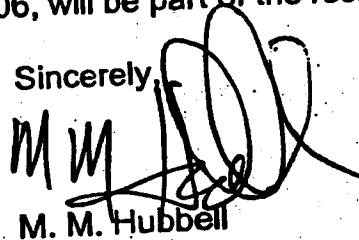
Re: Department of Environmental Quality, Division of Air Quality, Approval Order

Dear Mr. Clark:

I received your request for a formal hearing on December 2, 2005. The next Air Quality Board meeting is scheduled for January 4, 2006 at 1:30 p.m. At that meeting I will request that the Board appoint a hearing officer. It is not necessary that you attend, since that is the only action that will be taken at this meeting. However, if you wish to attend, you may.

After a hearing office has been appointed, I will contact you to schedule a hearing. Prior to a hearing you should submit any documents you wish to be part of the hearing record. Your letter of December 2, 2006, will be part of the record.

Sincerely,



M. M. Hubbell

CC: Rob Leishman
Fred Nelson
Richard Sprott

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

RAYMOND A. HINTZE
Chief Deputy

Protecting Utah • Protecting You

KIRK TORGENSEN
Chief Deputy

January 23, 2006

Via Mail and Facsimile

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

Re: October 21, 2005 Pine Factory Notice of Violation and Order to Comply

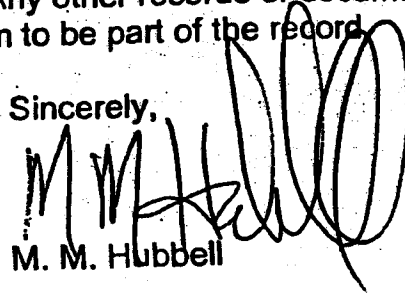
Dear Mr. Clark:

A Hearing Officer was appointed by the Air Quality Board at the January 4, 2006 board meeting. A hearing on the October 21, 2005 Notice of Violation and Order to Comply will be set in the near future. If you have retained or plan to retain counsel for the hearing, please have them contact me at (801) 366-0290 to discuss the hearing.

If you do not retain counsel, please contact me and let me know of any date in February or early March that would be convenient for you to attend the hearing. If neither you nor your attorney contact me, I will set up a hearing without your input as to the date.

Prior to the hearing, you must submit any documents you wish to be part of the hearing record for the consideration of the Hearing Officer and the Board. Your letter of December 2, 2005, will be part of the record. Any other records or documents must be submitted by February 6, 2006 if you want them to be part of the record.

Sincerely,


M. M. Hubbell

CC: Rob Leishman
Fred Nelson
Richard Sprott

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

RAYMOND A. HINTZE
Chief Deputy

Protecting Utah • Protecting You

KIRK TORGENSEN
Chief Deputy

March 9, 2006

Via Mail and Facsimile

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

NOTICE OF HEARING

Doug Clark
Pine Factory
4037 Riverdale Road
Riverdale, Utah 84405

Melissa Hubbell
Assistant Attorney General
160 E 300 South 5th Floor
Salt Lake City, Utah 84114

Re: Notice of Hearing for Pine Factory Notice of Violation and Order to Comply, No. 2005100508 dated October 24, 2005.

Dear Mr. Clark and Ms Hubbell:

This letter is for the purpose of notifying you that the formal administrative hearing on the above entitled matter will be on Tuesday, April 25, 2006, at 1:00 pm, in the library conference room of the State Division of Air Quality, 150 N 1950 West, Salt Lake City, Utah. Mr. Ernest Wessman is the appointed Board member who will be the hearing officer.

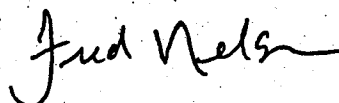
The hearing will be for the purpose of Mr. Wessman receiving evidence upon which to base a recommendation to the Utah Air Quality Board on whether the Notice and Order to Comply, No 2005100508, should be upheld, modified, or rescinded. The hearing is not for the purpose of establishing a penalty, which can only be done in a civil

proceeding.

Prior to the hearing, you must submit any documents you wish to be part of the hearing record for the consideration of the Hearing Officer and the Board. Your letter of December 2, 2005, will be part of the record. Any other records or documents must be submitted by April 10, 2006 if you want them to be part of the record.

Please feel free to contact me at (801) 366-0285 if you have any questions. If you have retained counsel for the hearing, please have them contact me to discuss the hearing.

Sincerely,



Fred Nelson
Counsel, Utah Air Quality Board

CC: Ernest Wessman
Rob Leishman
Richard Sprott

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

RAYMOND A. HINTZE
Chief Deputy

Protecting Utah • Protecting You

KIRK TORGENSEN
Chief Deputy

March 27, 2006

Via Mail and Facsimile

Doug Clark
Pine Factory
2480 South 2050 West
Ogden, Utah 84401

REVISED
NOTICE OF HEARING

Doug Clark
Pine Factory
4037 Riverdale Road—
Riverdale, Utah 84405

Melissa Hubbell
Assistant Attorney General
160 E 300 South 5th Floor
Salt Lake City, Utah 84114

Re: Revised Notice of Hearing for Pine Factory Notice of Violation and Order to
Comply, No. 2005100508 dated October 24, 2005.

Dear Mr. Clark and Ms Hubbell:

We have had to change the date for hearing the above-entitled matter. This letter is for the purpose of notifying you that the formal administrative hearing will be on Thursday, April 27, 2006, at 1:00 pm, in the main conference room of the State Division of Air Quality, 150 N 1950 West, Salt Lake City, Utah. Mr. Ernest Wessman is the appointed Board member who will be the hearing officer.

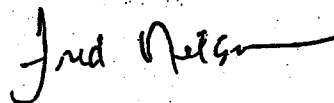
The hearing will be for the purpose of Mr. Wessman receiving evidence upon which to base a recommendation to the Utah Air Quality Board on whether the Notice and Order to Comply, No 2005100508, should be upheld, modified, or rescinded. The hearing is not for the purpose of establishing a penalty, which can only be done in a civil

proceeding.

Prior to the hearing, you must submit any documents you wish to be part of the hearing record for the consideration of the Hearing Officer and the Board. Your letter of December 2, 2005, will be part of the record. Any other records or documents must be submitted by April 10, 2006 if you want them to be part of the record.

Please feel free to contact me at (801) 366-0285 if you have any questions. If you have retained counsel for the hearing, please have them contact me to discuss the hearing.

Sincerely,

A handwritten signature in dark ink, appearing to read "Fred Nelson", with a long horizontal flourish extending to the right.

Fred Nelson
Counsel, Utah Air Quality Board

CC: Ernest Wessman
Rob Leishman
Richard Sprott

2

Before the Utah Air Quality Board

In the matter of:

Pine Factory

DAQC-1471-2005

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Findings of Fact, Conclusions of Law
and Order

This matter was initially heard by the appointed Hearing Officer, Ernest Wessman, on April 27, 2006, with the Executive Secretary of the Utah Air Quality Board being represented by Assistant Attorney General Melissa Hubbell. Fred Nelson acted as counsel to the Hearing Officer and the Board. The hearing was held at the request of Mr. Doug Clark on behalf of Pine Factory. Mr. Clark was advised by mail of the date and time of the April 27th hearing approximately 30 days prior to the hearing. Mr. Clark was provided a copy of the administrative record approximately two weeks prior to the hearing. On the day of the hearing, Mr. Clark did not appear and Pine Factory was unrepresented. When contacted by telephone, Mr. Clark advised Mr. Nelson that Pine Factory would rely on letters to the Executive Secretary that were part of the administrative record and would not attend the hearing. The Utah Air Quality Board having considered this matter, and having reviewed the transcript of the hearing and the administrative record, and having considered the recommendation of the Hearing Officer, makes the following:

Findings of Fact

1. Pine Factory, also known as C & C Manufacturing, operates a wood furniture manufacturing facility at 2480 South 2050 West, Ogden, Weber County, Utah, that includes a

paint spray booth.

2. Pine Factory is subject to Approval Order DAQE-880-95, dated September 26, 1995.

(Exhibit 1)

3. Condition 6 of the Approval Order states that the "paint spray booth shall be equipped with paint arrestor particulate filters, (or equivalent), to control particulate emissions. All air exiting the booth shall pass through this control system before being vented to the atmosphere."

4. Conditions 7, 8, 9, and 12 of the Approval Order provide for limitations on volatile organic contents ("VOC") and emissions for coatings used in the paint booth and require records for the past two years be kept and available for review.

5. Condition 13 of the Approval Order requires "maintenance practices that maximize pollution control."

6. Pine Factory received a Notice of Violation and Order for Compliance dated 24 October 2005 (Exhibit 12), based on inspections on November 4, 2004 and December 27, 2004 (Exhibits 2, 3, 4, and 5), alleging violations of Conditions 6, 7, 8, 12, and 13 of the Approval Order.

7. Pine Factory submitted two responses to the Executive Secretary, one dated February 15, 2005 following the inspections, and the second dated December 2, 2005 after issuance of the Notice of Violation and Order for Compliance. (Exhibits 7 and 13)

8. Based on the November 4, 2004, and December 27, 2004, inspections, the paint spray booth had filter panels missing and the filters that were in place needed replacement because they were excessively caked with paint overspray.

9. Based on the November 4, 2004, and December 27, 2004, inspections, records were

not available documenting volatile organic contents and emissions for coatings used in the paint booth.

10. Based on the November 4, 2004, and December 27, 2004, inspections, open VOC containers were observed.

11. In Pine Factory's responses (Exhibits 7 and 13) it did not contest the findings that some filters were not in place and other filters needed replacement, that records were not available at the time of the inspections, or that there were open VOC containers.

12. The "VOC Report for the Pine Factory 2003-2004" submitted by Pine Factory on February 15, 2005 (Exhibit 7), did not contain adequate information or backup documents to meet the requirements of Conditions 7, 8 and 12 of the Approval Order. (Testimony of Rob Leishman, p. 22-26 of Transcript).

Conclusions of Law

1. Pine Factory was operating under a valid approval order issued pursuant to the Utah Air Conservation Act and implementing rules.

2. Pine Factory was in violation of Approval Order Condition 6 on November 4, 2004, and December 27, 2004, for failure to vent all air exiting the paint booth through paint arrestor particulate filters.

3. Pine Factory was in violation of Approval Order Conditions 7, 8, and 12 on November 4, 2004, and December 27, 2004, for failure to have records available documenting volatile organic contents and emissions for coatings used in the paint booth.

4. Pine Factory was in violation of Approval Order Condition 13 on November 4, 2004, and December 27, 2004, by not maximizing pollution control by having open containers with

volatile organic content.

Order

Based on the Findings of Fact and Conclusions of Law, the Notice of Violation and Order for Compliance dated October 24, 2005, DAQC-1471-2005 is upheld.

Dated this _____ day of _____, 2006.

Chair, Utah Air Quality Board